

## COUNCIL MEETING

FEBRUARY 24, 2016

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, February 24, 2016 at 8:33 a.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock  
Honorable Gary L. Hooser  
Honorable Ross Kagawa  
Honorable JoAnn A. Yukimura (*present at 8:46 a.m.*)  
Honorable Mel Rapozo

Excused:      Honorable Arryl Kaneshiro  
                 Honorable KipuKai Kuali'i

### APPROVAL OF AGENDA.

Councilmember Chock moved for approval of the agenda as circulated, seconded by Councilmember Kagawa.

Council Chair Rapozo:                      Discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the agenda was then put, and carried by a vote of 4:0:3 (*Councilmembers Hooser, Kagawa, and Yukimura were excused*).

Council Chair Rapozo:                      Motion carried. Next item, please.

### MINUTES of the following meetings of the Council:

December 17, 2015 Special Council Meeting  
January 14, 2016 Special Council Meeting  
January 27, 2016 Public Hearing re: Bill No. 2601, Bill No. 2610, and Bill No. 2611

Councilmember Chock moved to approve the Minutes as circulated, seconded by Councilmember Kagawa.

Council Chair Rapozo:                      Discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve the Minutes as circulated was then put, and carried by a vote of 4:0:3 (*Councilmembers Kaneshiro, Kualii, and Yukimura were excused*).

Council Chair Rapozo: Motion carried. Next up are the interviews. I just want to make note for the record that Councilmembers Kualii and Kaneshiro are in Washington D.C. representing Kauai at our National Association of Counties (NACo) Legislative Conference. With that, can we have the first interview, please?

JADE K. FOUNTAIN-TANIGAWA, County Clerk: The first interview is for the Police Commission. This is Catherine Adams.

INTERVIEWS:

POLICE COMMISSION:

- Catherine A. Adams – Term ending 12/31/2018

Council Chair Rapozo: Good morning Ms. Adams. If you could state your name for our captioner.

CATHERINE A. ADAMS: Catherine Adams.

Council Chair Rapozo: Thank you. Thank you for being here today. we have your application for the appointment to the Police Commission. As we do with all of the applicants, we ask you to give us an overview of yourself and then we will open it up for Councilmembers for any questions.

Ms. Adams: Alright. My name, as you know, is Catherine Adams. I am a Registered Nurse and I am the Director of Patient Safety and Quality Services at Wilcox Memorial Hospital. We are responsible for the regulatory kinds of things that the hospital has to deal with. As you will note from my Curriculum Vitae (CV), you will see that I had two (2) terms on the Civil Service Commission and would like to think that I made a positive contribution on that Commission, and look forward to making a contribution to my community on the Police Commission.

Council Chair Rapozo: Thank you very much. Any questions for Ms. Adams? No questions? Okay, Councilmember Chock.

Councilmember Chock: Good morning Ms. Adams. Thank you for being here, and thank you for your willingness to contribute and serve again. I just wanted to hear more about what you think your contribution will be specific to the Police Commission.

Ms. Adams: It is funny because when I first was appointed to the Civil Service Commission, I had no idea what I could contribute in that situation. As time went on, what I learned is just having a common sense kind of

community perspective is the best that I can provide. I do not have technical experience in the Police Department. That is not my area of expertise. But as a nurse and as a Hospital Administrator, I like to believe that I just have common sense and want to contribute in that way.

Councilmember Chock: Thank you. Thank you, Chair.

Council Chair Rapozo: Any other questions? If not, thank you.  
Common sense is a good thing.

Ms. Adams: Okay, good.

Council Chair Rapozo: And we will definitely...oh, I am sorry.  
Councilmember Hooser.

Councilmember Hooser: It is not really a question.

Ms. Adams: Yes.

Councilmember Hooser: I know we are supposed to ask questions.

Ms. Adams: Okay, good.

Councilmember Hooser: Did you know how thankful we are or I am, that you are putting yourself? That is a question. No. I appreciate you putting yourself forward for this position. It is a very important position and as you know in the media, national media, and the local media, the Police Departments all over are under a microscope. So the role of a Police Commissioner is critical in maintaining faith and confidence from the community at the minimum.

Ms. Adams: Yes.

Councilmember Hooser: Are you sure you are up for this?

Ms. Adams: Well, all I can do is do my best and that is what I intend to do. I will be there and I have been known to have opinions, so be it.

Councilmember Hooser: Okay. Good. I think we need strong people on all Commissions, but certainly on this one.

Ms. Adams: Yes.

Councilmember Hooser: Thank you very much.

Ms. Adams: Thank you.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Hi. Thank you. Thank you for being willing to serve. I just looked at your application and saw that you served on other Boards and Commissions. I see that you have also served on the Hawai'i State Center for Nursing?

Ms. Adams: Yes.

Councilmember Kagawa: And that was from 2004 to 2009?

Ms. Adams: Yes.

Councilmember Kagawa: What was the function of that?

Ms. Adams: It is a Board that is meant to help support in growing nursing. At that time, we were going through a nursing shortage and we were looking for ways in which we could help support schools and other programs to encourage nursing at the bedside. So that is what we were tasked with doing and as it turns out, it has met its sunset or its period. The legislature had said "it is from this period to this period," and it is gone beyond that because they are looking at research, and they are looking at how to support the workforce in making sure that they get what they need to keep them in nursing and providing good care.

Councilmember Kagawa: Currently our nursing supply is excellent?

Ms. Adams: We are actually doing quite well, and it is a combination of factors between the economy getting better. When the economy was getting worse, more people stayed at the bedside instead of retiring, and the increased efforts in the schools of nursing to grow new nurses, we have had both things happen. So now we have got a nice supply at Wilcox in particular, people just do not leave. They stay and we do very well because of that.

Councilmember Kagawa: Another follow-up question to that, so your Board did an excellent job because you had a problem in those years and the problem has been solved.

Ms. Adams: Yes.

Councilmember Kagawa: How many of those nurses would you say are local Kaua'i residents that have turned into that field? Do we have a large percentage of the new comers?

Ms. Adams: Oh, yes. At Kaua'i Community College, I taught there for a year. They are actually giving preference to in-State applicants because they had so many applicants that they really chose to select in-State people

and of course, if you are from Kaua'i, there is somewhat of a preference to keep people here. So we want that, and what has happened is that instead of everybody going to hospitals, we are now seeing more diversity so you might go to long-term care, or into teaching, or other types of roles within nursing.

Councilmember Kagawa: I guess I look at it as nursing as well-paying jobs.

Ms. Adams: It is.

Councilmember Kagawa: To me, if the well-paying jobs are going to people that move here and take it, then we are not helping our community. I hope you can spread that should you get your appointment to the Police Commission, and spread some of that success with the Police Department.

Ms. Adams: Yes.

Councilmember Kagawa: Because I also feel those are well-paying jobs, and it burdens my heart a little bit when I see a lot of the class come from the mainland.

Ms. Adams: Yes.

Councilmember Kagawa: I think well-paying jobs should go to our local residents.

Ms. Adams: I agree.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Thank you. Any other questions for Ms. Adams? If not, thank you again, for putting yourself up for this.

Ms. Adams: Thank you for having me.

Council Chair Rapozo: I will just say on a personal note, and my brother is sitting in the back. He can attest to this, that over the last few years we spent many hours at Wilcox Hospital and there was never a time that you pass, you always asked if we needed something, if everything was okay, and always with a smile on your face.

Ms. Adams: Good.

Council Chair Rapozo: I obviously believe you will be appointed and confirmed. I look forward to your expertise on the Police Commission. Thank you very much.

Ms. Adams: Thank you.

Council Chair Rapozo: Next interview.

Ms. Fountain-Tanigawa: Next interview is for the Liquor Control Commission, William Gibson.

#### LIQUOR CONTROL COMMISSION:

- William F. Gibson – Term ending 12/31/2018

Council Chair Rapozo: Thank you, Mr. Gibson. Same thing. If you could just state your name for our captioner and then give us a brief overview. I think you have been here several times before, so you know the drill.

WILLIAM F. GIBSON: My name is William Gibson, Billy Gibson. Yes, I have been here on a couple of occasions. In fact, I remember being in this same room when the Liquor Commission was here. At that time, I was a restaurant operator. So that was not as pleasant. Anyway, I served six (6) years previously on the Commission, and I am currently retired from the Kaua'i Community College Culinary Department. I spent eighteen (18) years there. I was just thinking about it, thirty (30) or forty (40) years in the industry. I came to Kaua'i not really wanting to be here because I was born and raised on O'ahu and I thought, I do not want go to Kaua'i, small town. I fell in love with it and I came because this person, Lyle Guslander, talked me into it. I spent a wonderful almost twenty (20) years associated with Coco Palms. Grace was probably one of the greatest managers ever. I operated my own restaurant for about thirteen (13) years at the Wailua Golf Course and as I mentioned, I worked at Coco Palms, I worked at Hilton Kaua'i Beach Resort, which is now the Kaua'i Beach Resort. So most of my life has been in food and beverage.

Council Chair Rapozo: Thank you very much. Any questions for Mr. Gibson? Councilmember Chock.

Councilmember Chock: Good morning

Mr. Gibson: Good morning.

Councilmember Chock: Thank you so much for being willing to use your retirement in service for the community once again. I was just wanting to hear more about where you think or what you think the needs are in the Liquor Commission as a Commissioner and how you would like to spend your time in service while there.

Mr. Gibson: Well, one (1) of the two (2) primary responsibilities would be to prevent minors from consuming alcohol, and the other would be from anyone overconsuming alcohol and jeopardizing others on the

highways, especially. I think our Commission has been doing a very good job especially in the area of the minors as they have been working in conjunction with the University of Hawai'i and the Kaua'i Police Department in having these, I would call them "stings," semi-annually to keep operators on their toes about checking identifications and preventing minors from purchasing alcoholic beverages.

*(Councilmember Yukimura was noted as present.)*

Council Chair Rapozo: Thank you. Any other questions for Mr. Gibson? I just wanted to follow-up a little bit on that and I know that the Commission has taken some very strong actions against some of the license holders recently, which is a good thing. I have always been an advocate that the way you gain compliance is you make it cost and suspending licenses and revoking licenses, if necessary, if that is the only way people are going to start paying attention. Do you see the enforcement continuing? Many people will notice if you go to 7-Eleven for example now, I do not care how old you look, you get carded. People get offended, but it is because of the actions of the Liquor Control Commission of recent and past that now they have to because the fines are just too expensive. So now everybody gets carded. They are not the only ones now. There are many other venues now that will require a card to be saved for every transaction. Is that something that you folks, I guess, intend to continue with the strong enforcement and the strong sanctions against these people that refuse to comply?

Mr. Gibson: I was interested to learn that we had a revocation of a license in the last couple of years. I had not experienced that in my time. We had fines, of course, and warnings but never a revocation or a suspension. I would think that the direction that the Commission is heading is towards stronger enforcement. I know that the Liquor Department works closely with Kaua'i Police Department and other agencies to strengthen this philosophy. Yes, I think we will continue to ask the industry to pay more attention to the rules and regulations, which are there for safety.

Council Chair Rapozo: I think the ongoing aggressive enforcement and sanctions are definitely necessary because they do save lives. There is no doubt about that. I appreciate that. Any other questions for Mr. Gibson? Councilmember Kagawa.

Councilmember Kagawa: I just wanted to comment on your statement about 7-Eleven. I proudly got "carded" about two (2) months ago and I thanked the lady at 7-Eleven. I said, "Thank you very much."

Council Chair Rapozo: I remember the first time. I thought it was pretty ridiculous. But I also witnessed a situation while I was in there buying my coffee and the investigator came in and asked for the Manager. Apparently the Manager, I guess, you folks get different colors of cards. But the Manager had stepped out for a little bit and action was taken because they are that serious about

following the laws. I understand. I think if I had a restaurant or liquor store, or a bar, I would require the same thing. Everybody gets carded. That way nobody slips through the cracks. I know ABC Store and several other establishments have a zero tolerance policy. So regardless of the circumstances, if you sell boozes to an underage person, you get fired, and that is now becoming standard in the industry, which is a good thing as well. People have to understand that their actions could cause injury or death to someone else. I appreciate the aggressive nature. Councilmember Kagawa.

Councilmember Kagawa: I have one (1) question. Billy, first of all, thank you for being willing to serve again. I appreciate your service and I think you fit like a glove. It is a perfect Commission with all the experience you have.

Mr. Gibson: Thank you.

Councilmember Kagawa: On a serious note, I have had a request from the vendor at Wailua Golf Course to have a mobile unit to go out and serve alcohol on the course just as many private courses do and not only for revenue. I think the vendor said that it would probably bring in a lot of visitors, which really, if we get the visitor play to increase, that is how that golf course becomes sustainable. We lack a lot of play in the afternoons. In the later morning and afternoon, there is a large amount of gaps that could be filled by the visitor industry. I am told that a lot of them do not want to play because there is no alcohol to be purchased on the course. One of the benefits that the vendor brought up was that if we serve alcohol on the course, it will be their job and they will tell the workers to monitor and make sure that no illegal alcohol is being brought on the course and being consumed. Sometimes it is even minors that may get to the alcohol. So they said there will be better policing of the alcohol that is illegally being used on the course, plus we enhance possibly more visitor play. I am wondering if the Commission is open to looking into possibly the benefits and negatives. I do not really see the negatives because I believe alcohol is already being consumed on the course by illegal coolers and what have you or beers being thrown into golf bags. I believe that there is already alcohol being consumed on the course whether we want to admit it or not. I am just wondering if the Commission is willing to or open to looking into whether Wailua Golf Course would be better enhanced in many areas by allowing alcohol to be served by vendors on the course.

Mr. Gibson: I think being a drinker and I have been guilty of having a beer or two (2) on the course. I think it is not out of the realm of possibility. However, I think that the licensing procedure would require the vendor to use the whole extremity of the golf course as part of their license premises and that requires them to...Gerald, correct me if I am out of order. But this is something that is handled by the Department, with the...I hesitate to say "approval of," but with the input from the Commission. I do not know if the vendor would be willing to take the responsibility of trying to control under our regulations, the entire golf course. I have heard that conversation about the possibility of having a food and beverage cart going



out and around. But I think there is a lot of discussion that has to take place before we could say yay or nay.

Councilmember Kagawa: Thank you, Billy.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Yes. Good morning.

Mr. Gibson: Good morning.

Councilmember Yukimura: I just want to apologize for being late and thank you for your willingness to serve. I have no questions because I have the utmost confidence in your service. Thank you.

Council Chair Rapozo: Thank you. Anyone else? If not, thank you again Mr. Gibson. We appreciate your service, your past service, and your continued service. Thank you. With that, next item please.

CONSENT CALENDAR:

C 2016-40 Communication (01/22/2016) from the Mayor, transmitting for Council consideration and confirmation, the following Mayoral appointments to the various Boards and Commissions for the County of Kaua'i:

a. Board of Ethics

- Michael C. Curtis – Term ending 12/31/2018

b. Charter Review Commission

- Michael G. Perel – Term ending 12/31/2018

c. Civil Service Commission

- Fely L. Faulkner – Term ending 12/31/2018

d. Cost Control Commission

- Tyler R. Rodighiero – Term ending 12/31/2018

e. Planning Commission

- Heather K. Ahuna (Environmentalist) – Partial Term ending 12/31/2016

C 2016-41 Communication (02/04/2016) from the Director of Finance, transmitting for Council information, the Period 6 Financial Reports – Detailed Budget Report, Statement of Revenues (Estimated and Actual), Statement of Expenditures and Encumbrances, and Revenue Report as of December 31, 2015, pursuant to Section 21 of Ordinance No. B-2015-796, relating to the Operating Budget of the County of Kauaʻi for the Fiscal Year 2015-2016.

Councilmember Yukimura moved to receive C 2016-40 and C 2016-41 for the record, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2016-40 and C 2016-41 for the record was then put, and carried by a vote of 5:0:2 (*Councilmembers Kaneshiro and Kualii were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

#### COMMUNICATIONS:

C 2016-42 Communication (09/11/2015) from the Mayor, transmitting for Council consideration, a proposed supplemental money bill to fund a new Deputy County Attorney position to provide legal support for the Kauaʻi Police Department. (*Deputy County Attorney, Kauaʻi Police Department Legal Support – \$30,933*)

Ms. Fountain-Tanigawa: We have one (1) registered speaker.

Council Chair Rapozo: Can I get a motion to receive, please?

Councilmember Chock moved to receive C 2016-42 for the record, seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you.

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: Who is the registered speaker?

Council Chair Rapozo: Glenn Mickens.

GLENN MICKENS: Good morning Councilmembers.

Council Chair Rapozo: Good morning.

Councilmember Yukimura: Good morning.

Mr. Mickens: For the record, Glenn Mickens. I have tremendous respect for Chief Perry and his officers in the jobs they do for protecting the citizens of Kaua'i. I spoke to our Chief and he assured me that he needs this supplemental money bill of thirty thousand nine hundred thirty-three dollars (\$30,933) to fund a new Deputy County Attorney position to provide legal support for the Kaua'i Police Department. I am sure that Chief Perry would not ask for this position unless he saw the need for it and to put efficiency in the system. Hopefully those Councilmembers who voted against this money, Bill No. 2618, last year will change their minds and vote for it. Compared to the amount of money this County wastes on so many other projects, this amount is minuscule for what is needed to protect us. I hope will you pass it. Thank you.

Council Chair Rapozo: Anyone else wishing to testify?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: The Bill will be showing up later on today. This just the Communication. Any further discussion?

The motion to receive C 2016-42 for the record was then put, and carried by a vote of 5:0:2:0 (*Councilmembers Kaneshiro and Kualii were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

C 2016-43 Communication (02/10/2016) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds in the amount of \$210,716, and approval to indemnify the State of Hawai'i, Department of the Attorney General, for the Kaua'i Victim of Crime Act (VOCA) Expansion Project 14-VA-3 for the period of July 1, 2016 through June 30, 2017: Councilmember Kagawa moved to refer C 2016-43 to the March 2, 2016 Public Safety Committee Meeting, seconded by Councilmember Hooser.

Council Chair Rapozo: Thank you. Any discussion? Any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to refer C 2016-43 to the March 2, 2016 Public Safety Committee Meeting was then put, and carried by a vote of 5:0:2 (*Councilmembers Kaneshiro and Kualii were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

C 2016-44 Communication (02/12/2016) from the Salary Commission, transmitting for Council information, the Salary Commission's Resolution No. 2016-01, Relating to the Salaries of Certain Officers and Employees of the County

of Kaua'i for the Fiscal Year 2016-2017, which was adopted by the Salary Commission at its February 5, 2016 meeting.

- Salary Commission Resolution No. 2016-1

Ms. Fountain-Tanigawa: Chair, we have registered speakers for this item.

Councilmember Kagawa moved to refer C 2016-44 to the March 2, 2016 Budget & Finance Committee Meeting, seconded by Councilmember Chock.

Council Chair Rapozo: Thank you.

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: Who are the registered speakers?

Ms. Fountain-Tanigawa: The first registered speaker is Mayor Carvalho, followed by Charles Iona.

Council Chair Rapozo: Good morning Mayor.

BERNARD P. CARVALHO, JR., Mayor: Good morning Chair Rapozo and Councilmembers. *Aloha*. I am here this morning to support the Salary Commission's Salary Resolution No. 2016-1. Most of the positions listed on this Resolution before you have not received any salary increases since December 2008. For those positions that did receive increases, I have no authority or control over those positions. Due to the recession at that time, the County's financial difficulties at that time, I felt that it was inappropriate to authorize salary increases from 2009 through 2014. Therefore, I implemented a freeze. I did, and the salaries of my Department Heads and Deputies. This was not an easy decision as I knew that salary increases for key members of my Administration, our Administration, were well-deserved. Last year, I was hopeful that the County Council would approve the Salary Resolution, but unfortunately it was not approved. But having no salary increases for Department Heads and Deputies for the past seven (7) years all while salaries continued to increase via collective bargaining agreements and so on has resulted in more inversions that we are looking at internally how to continue to support our employees and Department Heads who work diligently to make decisions collectively and do the work that we do for the people. These instances will continue to grow if we do not look at least look at this and provide the support. I come before you this year in hopes that you approve the Salary Resolution before you. Again, majority of these positions have not had increases over seven (7) years. I feel that the maximum salary caps set this year by the Salary Commission are fair and reasonable. If it is the intent of the County to attract the most qualified people for top level positions, salaries must be comparable to similar positions within the private sector and of course, other Counties. Finally, I would like to recognize the Salary Commission, the hard work of the Salary Commission. I support the work of the

Salary Commission. They gathered. They worked on it. They are the ones who really did an awesome job in vetting out every single way to look at this salary increase. So I want to make clear the Salary Commission's work, their outreach, and connecting the dots, if you will. They completed the increases in the maximum salaries allowed much thought, time, and of course, research to their decision. I ask for your favorable consideration, Chair Rapozo and Councilmembers, on this particular issue. *Mahalo* for your time.

Council Chair Rapozo: Thank you very much. Questions? Go ahead.

Councilmember Yukimura: Good morning Mayor.

Mayor Carvalho: Good morning.

Council Chair Rapozo: This is administrative. So we will allow the questions.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Please.

Councilmember Yukimura: Thank you, Mayor. As you know, I was the one voting in support of the salary raises last time because I believe as you do, that we should be paying good compensation for good leadership and that we need to have salaries competitive with the private sector if we are to attract good talent. But the second part to having good talent is that in the appointing process you vet the credentials and the qualifications of those who are placed in those positions and when appointments are made politically, that really lessens the credibility of the County and also...

Council Chair Rapozo: Councilmember Yukimura, there is a question, right, in this?

Councilmember Yukimura: Yes.

Council Chair Rapozo: Okay, because we need a question.

Councilmember Yukimura: Yes, and makes the support for salary increases more difficult. I was wondering if you could give us assurance about the way that you select, and I want to say that many of your appointments are very fine quality, and we...

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Grieve the...

Mayor Carvalho: I am very proud of our Department Heads and...

Council Chair Rapozo: Hang on. Councilmember Yukimura. Hang on.

Mayor Carvalho: And we deserve everything that...

Council Chair Rapozo: Hang on. Sorry Mayor. You will have an opportunity, Councilmember Yukimura...

Mayor Carvalho: So thank you so much.

Councilmember Yukimura: I am...

Council Chair Rapozo: You will have an opportunity to state your position or your comments, but right now it is a question.

Councilmember Yukimura: I am setting the context for my question.

Council Chair Rapozo: No, that is not a context. You are stating an opinion. Ask the Mayor a question if you have a question.

Councilmember Yukimura: It is nonetheless a context. My question is could you please give us assurance about how you do your vetting process and whether you are following the review and evaluation processes to ensure quality leadership at the executive level?

Mayor Carvalho: Definitely. Our leadership team is in place as could you see the work that we have been doing over the years. I have a process in place. Now we have a Human Resources Department. We are working closely. I take my job seriously. I want to surround myself with good people with good intentions, good knowledge, and good backgrounds. I do not know everything as Mayor, but my job is to make sure that I have a team around me that are qualified, know what they are doing, have the ability to take the lead, and make tough decisions. Human Resources, like I said is brand new. So we are working closely with Human Resources to look at how we manage ourselves collectively. Yes, and I will continue to follow through on how we have been managing our Departments.

Councilmember Yukimura: So you do review your Department Heads annually?

Mayor Carvalho: Yes.

Councilmember Yukimura: Okay. Very good. Thank you.

Mayor Carvalho: Thank you.

Council Chair Rapozo: Any other questions? Councilmember Chock.

Councilmember Chock: Good morning Mayor.

Mayor Carvalho: Good morning Councilmember.

Councilmember Chock: Thank you for being here and for everyone else for being here as well. The question about the comparison between private industry, I think previously when we looked at there last year, there was something that we were offered to look at comparables, and I was wondering if that might be available this time around as well as we look at all of the positions that are being requested?

Mayor Carvalho: Yes. Like I said, our Salary Commission has done a tremendous job of vetting everything out and working closely with our team.

Councilmember Chock: I appreciate that. If there is that information, that is what I would like. *Mahalo*.

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: I am good.

Council Chair Rapozo: Any other questions for the Mayor? I just have one (1), and maybe it is in here. I apologize if it is. Has anyone looked at the financial or fiscal impacts of the increases and maybe it is someone else that is here that can answer that.

Mayor Carvalho: Yes, and we can follow-up on that. I can tell you this much, that we looked at it collectively. When is the right time? I do not know. But all I know this time is the time that we have before us, we have discussed it with our finance team, and we are ready to share that information with the appropriate people. But there is never a right time, and I believe this is the time that we have before us to support this Resolution.

Council Chair Rapozo: Okay. Thank you. I am assuming the Department of Finance is going to be here.

Mayor Carvalho: Yes.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: I am sorry. I had a question, if I could?

Council Chair Rapozo: Yes.

Councilmember Hooser: Good morning Mayor.

Mayor Carvalho: Good morning Councilmember.

Councilmember Hooser: Of all of the various positions, Directors and Deputies that are listed here, are most of them already maxed out because the maximum salary does not mean they have to get that, right? They could be hired at lesser amounts.

Mayor Carvalho: They could be hired with increments, which some of them were.

Councilmember Hooser: Right.

Mayor Carvalho: They are all based upon their performance, their work ethics, and what they do, yes. So some are at the maximum and some of them are in the process.

Councilmember Hooser: I guess the Director of Finance or someone will provide that information.

Mayor Carvalho: I can have our Director of Finance give you that full information.

Councilmember Hooser: Yes. How many are at max?

Mayor Carvalho: Yes.

Councilmember Hooser: Are they afforded the same benefits as regular County employees? They have the same vacation and the same health?

Mayor Carvalho: Yes. I can give you all the specifics with our finance team.

Councilmember Hooser: Okay. Thank you.

Council Chair Rapozo: Thank you. Any other questions for the Mayor. If not, thank you very much Mayor.

Mayor Carvalho: Thank you very much Councilmembers. Thank you, Chair Rapozo. *Mahalo*.

Council Chair Rapozo: Anyone else wishing to testify?



Ms. Fountain-Tanigawa: Chair, we have registered speakers.

Council Chair Rapozo: Okay. Go ahead.

Ms. Fountain-Tanigawa: Charles Iona, followed by Mary Hertog.

CHARLES IONA: Good morning, Council Chair and members of the Council. My name is Charles Iona. I am with the Police Commission as its Chair. I am here this morning in support of the Resolution that has been made by the Salary Commission. I think some years ago I came before this body. There were different members on this Council at the time that we talked about the salaries, especially with the Chief of Police. One of the biggest fears was the inversion that was going to take place. Because of that, especially with the recent sizeable increase that the bargaining unit has, the Chief was not afforded and so therefore, that inversion occurs even much faster. So what we have here based on what the recommendation of this Resolution shows is that there will be a well-enough gap established that going forward should bargaining unit members get an increase, you maintain those gaps. So you continually keep the gaps where it should be because if not, and I just say this as an exit strategy, if we lose our Chief of Police, Fire Chief, or whomever it may be, I do not think the salaries will be attractive enough to get someone in here. If you have someone that is already on-board and they are already maxed out at a salary that is higher than what the top position holds, I do not think that person is going to give up that position to take over at the top. So these are a lot of factors that needs to be considered, and I think this is one the ways based on the numbers that I have seen, that you would be able to maintain that level because we have always said that once you start going into the teeter-totter affect, that is what is going to happen. One side is going to exceed the other and it is going to go back and forth, back and forth. I think with this that you have before you on this Resolution, you establish, you keep a sizeable gap in there, and you just move accordingly because there are positions that are not covered by the bargaining units, that is not covers by the Police Commission like the Assistant Chiefs. They get the increases that the bargaining unit has and so they establish themselves that way as well. That is all I have. Thank you.

Council Chair Rapozo: Thank you. Next speaker, please.

Councilmember Yukimura: One (1) question.

Council Chair Rapozo: Restate or rephrase.

Councilmember Yukimura: He is a public official.

Council Chair Rapozo: Are you testifying as a Police Commissioner or as an individual?

Mr. Iona: No. As an individual.

Council Chair Rapozo: Thank you.

Councilmember Yukimura: Okay. Could you restate hopefully the fact of the amount of difference between the Assistant Chiefs and the Chiefs with this proposal?

Mr. Iona: I cannot give you the exact amount. But I know there is some Assistant Chiefs that right now based on their salaries with overtime as well as everything else that goes into that total package, they will exceed the pay of the Chief of Police.

Councilmember Yukimura: So there is not any gap even with this?

Mr. Iona: No, no. With this based on what I see, where it goes up just for the Police Department, I think there will definitely will be a gap, yes.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Next speaker.

Ms. Fountain-Tanigawa: Next speaker is Mary Hertog, followed by Roy Ho.

MARY HERTOOG: Good morning Councilmembers. I am Mary Kay Hertog, the Vice Chair of the Police Commission. I would like to go on record supporting Salary Resolution No. 2016-01. I believe the Salary Commission's recommendation of reorganizing these positions into top four (4) tiers is valid in order to provide the residents of Kaua'i the top leadership, safety, and security that they need and deserve. It only makes sense to me that the Mayor, Managing Director, and Police and Fire Chief are in this tier to be considered. But specifically, I want to talk about the Chief of Police and Deputy Chief positions and why it is important to approve these salary increases. As the Salary Commission pointed out, salaries for these individuals have been frozen for several years resulting in adverse actions if that is not going to be corrected and this is going to create some additional problems that have been alluded to by the Mayor and Mr. Iona. For example, there could be Assistant Chiefs in the Kaua'i Police Department (KPD) that have less responsibility than the Chief or Deputy Chief, but make more money and receive a higher salary. This pay inversion or pay inequity exists because of the pay freezes, as Mayor alluded to, and because of collective bargaining increases for other KPD employees. If not corrected, this is going result in problems highlighted in the Resolution. This problem is just not unique to the Police Department. One problem is retention. How are we going to retain top talent when the Department Head is working longer hours and has more responsibilities than subordinates, but is paid less? Some people may say enough is enough and vote with their feet and leave. There is not much incentive to stay in some cases. When that happens, you are going to face a bigger problem. How

are you going to recruit top talent when such a situation exists? That can also be a big morale bust for those people. The fact is that none of the individuals in the top tier work a 9:00 a.m. to 5:00 p.m. job. They are on call twenty-four/seven (24/7), they work long hours, and they are not doing it for the money. They are doing it because they are professional and they want to make a positive difference for all of us that work and live here on Kaua'i. I am proud to say that our Chief of Police has not let the salary inequity affect his attitude, his work ethic, or his intent to achieve the long-term goals that he has established for the Police Department such as accreditation for KPD. But it is a matter of fairness and I really encourage the Council to look at this issue strategically, long-term. How do we retain our top tier people and how do we recruit for those people when they decide to move on or retire? Thank you. If you have any questions. Yes, ma'am.

Councilmember Yukimura: Good morning.

Council Chair Rapozo: Hang on. Are here as a Police Commissioner or as an individual?

Ms. Hertog: As a Commissioner.

Council Chair Rapozo: Okay. Go ahead.

Councilmember Yukimura: Thank you, General. I agree with you that it is a matter of fairness and the inversion is a big problem. I just wanted to confirm, and perhaps you know the inversion in the Police Department will be corrected with this pay increase?

Ms. Hertog: As Mr. Iona said, with the pay increase you will establish a larger gap between those individuals that have less responsibility and do not hold the Chief's position, yes.

Councilmember Yukimura: Okay. So there will not be an inversion?

Ms. Hertog: As far as I know, no. I do not have all of the figures on that. I can tell you what the suggested Chief's salary is and the Deputy Chief, but I have to look at Assistant Chiefs. But you will establish that gap that will make easier for us to recruit or retain these individuals.

Councilmember Yukimura: If we are thinking strategically in the long-term, do you feel when the collective bargaining agreements come up, we need to look at them in terms of the inversions they will be creating?

Ms. Hertog: That is solely up to you. I mean, you have got your unions out there that are doing, I think, a fine job advocating for their employees and that should be considered.

Councilmember Yukimura: But we would be representing the management side of it in terms of setting policy. Do you have any recommendations in terms of policy?

Ms. Hertog: No, I do not for you. That is your determination there. I think what you need to do is correct the gap that we have right now.

Councilmember Yukimura: Well, there are two (2) ways to correct it.

Ms. Hertog: Certainly. But at the time, you need to look at people on the streets that are doing the job day-to-day as well. You do not want to penalize them as well.

Councilmember Yukimura: Absolutely not. If there is sufficient compensation without creating inversion, that should be perhaps the way to do...

Ms. Hertog: I think you should pursue that, yes. I am an advocate for retaining people at all levels, the top talent and all levels, not just the very top.

Councilmember Yukimura: Okay.

Ms. Hertog: And being able to perhaps grow your own within the Department too.

Councilmember Yukimura: Yes.

Ms. Hertog: Up to those very top levels.

Councilmember Yukimura: Yes. Thank you very much.

Ms. Hertog: Thank you. Any other questions?

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Thank you for your testimony. I am just wondering if the Police Commission has ever looked at the history of the inversion because I believe there has been inversion from the 1980s that has always existed, like large gaps. In my time working with the Council, I recall the Chief of Police making in 1989, maybe sixty thousand dollars (\$60,000) and we had Inspectors making seventy-five thousand dollars (\$75,000), seventy-seven thousand dollars (\$77,000). So inversion has been there.

Ms. Hertog: Right.

Councilmember Kagawa: From a while. I am wondering if the Police Commission looked at numbers as to what was the inversion in the 1980s and what it is now.

Ms. Hertog: I would defer that to our Chair Iona. He has more of a history of that. But I am sure because he is there and we know that the pay freezes as existed as the Mayor said since 2008. Yes, we have always been concerned. We have had that discussion within our own Commission meetings about that...

Councilmember Kagawa: Because I just want to be...

Ms. Hertog: ...in just the last two (2) years that I have been on the Commission.

Councilmember Kagawa: Yes. I want to be careful when we say that well public safety is going to be jeopardized or what have you, when the large inversion gap has been there from the 1980s and they are saying that "oh, there is going to be more danger now." I mean, I think maybe we can say that we need to correct this wrong as a more accurate statement because I think the inversion has always been there.

Ms. Hertog: It has. But the point I am trying to make is safety and security should be your top priority. Just like the President of the United States has said many times, the safety and security of this Nation is my top priority. It should be that, for I think our Councilmembers as well as our Department Heads especially when it comes to Fire and Police.

Councilmember Kagawa: I understand.

Ms. Hertog: The bottom-line is you are not going to be able to recruit talent to replace those individuals when they retire unless their salaries are competitive.

Councilmember Kagawa: I understand. There is also a difference because the Federal government can go into deficit because they print money. The County, we do not print money here.

Ms. Hertog: That is true.

Councilmember Kagawa: So there is a difference.

Ms. Hertog: I would like to go off my remarks and just make a comment. I actually experienced this as a General Officer in the military in my previous life. In my last assignment at the Pentagon, I had individuals with much less responsibility working for me but making a great deal more money. Did that

change my attitude about working? No it did not. But it was a morale bust for me when I had to correct their work because it was substandard. So I think what we need to do is be able to make this as competitive as possible.

Councilmember Kagawa: Thank you. I agree.

Ms. Hertog: Any other questions?

Council Chair Rapozo: Any other questions for the General?

Ms. Hertog: Commissioner is okay.

Council Chair Rapozo: Thank you very much.

Ms. Hertog: Alright. Thank you.

Council Chair Rapozo: Once a General, always a General. Next speaker.

Ms. Fountain-Tanigawa: Next speaker is Roy Ho, followed by Mauna Kea Trask.

ROY HO: Good morning Councilmembers. I come from the Planning Commission. I guess I am the...

Council Chair Rapozo: Mr. Ho, if you could just state your name for our captioner please.

Mr. Ho: I am sorry. I am Roy Ho. I come from the Planning Commission. I bring you a letter of support for the salaries. I guess it is overdue and the points will probably be made more. I guess with this letter, I am the carrier pigeon today. I would like to distribute it and have it distributed to Councilmembers, and that will conclude my day here. Thank you.

Council Chair Rapozo: Thank you very much. Next speaker. Is Mauna Kea the last speaker?

Ms. Fountain-Tanigawa: Last registered speaker.

Council Chair Rapozo: Okay. I am going to bring up Mauna Kea at the end that is why. Anyone else wishing to testify for the first time? Jan and then I cannot see who is in the back, yes?

JAN TENBRUGGENCATE: Thank you, Mr. Chairman. My name is Jan TenBruggencate. I am speaking for myself. My sense is that the County cannot expect to keep the best talent or attract better talent if we are not meeting market

salaries for our employees. I do not think salary inversion is a big issue partly because structurally it is very hard to do anything about it. However, I do take note that I think for many years we have Department Heads who are overseeing employees who make ten thousand dollars (\$10,000), twenty thousand dollars (\$20,000), thirty thousand dollars (\$30,000), forty thousand dollars (\$40,000), or fifty thousand dollars (\$50,000) more than they do. That is a problem that at some time we need to address, but we do not need to address here. Currently, our Department Heads are significantly underpaid. They have not received the increases that they appropriately should given the fact that everybody else in the County has received increases. Thank you.

Council Chair Rapozo:

Thank you.

JOHN LOW: Good morning Chair Rapozo and Councilmembers. My name is John Low. I am Chair of the Civil Service Commission. I am here today representing the Civil Service Commission to lend our full support to the Salary Commission Resolution now before you. In particular, we strongly support the recommendation for a tier shift level III for the Director of Human Resources. We believe the increased duties and responsibilities of the Director associated with the transition from a Department of Personnel to a full service Department of Human Resources clearly justifies this tier shift. We also believe that the salaries being recommended in this Resolution are fair and just, and deserve your approval. Thank you.

Council Chair Rapozo: Thank you very much. Anyone else wishing to speak for the first time? If not, Mr. Mauna Kea Trask. Oh, I am sorry. If you could just state your name for the captioner.

SHERI KUNIOKA-VOLZ: Good morning. I am Sheri Kunioka-Volz. I am here representing the Salary Commission. Along with me are my fellow Commission members; Camilla Matsumoto and Robert Crowell. Following the example of past Commissions, we view ourselves as part of a collaborative compensation system with a goal of attracting and retaining public servants of the highest caliber and quality to provide optimum service and lead the County of Kaua'i. We recognize that our recommendations merely set maximum limits and defer to Managers on the ground to determine where their direct report should fall under the limits. Salaries for similar positions from around the State have been considered as well as economic and cost of living. Looking at data from outside of the State was considered, but rejected as not germane. Cost considerations precluded us from seeking outside consultants. We relied on data obtained for us by the Department of Human Resources and other public records. Public testimony has been welcomed at all of our meetings. For your information and perusal, we are including various exhibits of information gathered and considered. I believe you were all given a packet of the exhibits.

Exhibit A is the comparison of County of Kaua'i salaries with other island County Departments, Exhibit B displays the maximum salary recommendations for the County of Kaua'i, Exhibit C is the organizational chart for newly created Department of Human Resources, Exhibit D is the overview of Salary Commission's considerations for making these recommendations, and Exhibit E, qualifications of the executive appointees as defined by Charter. In the recent past due to the economic concerns, the Salary Commission has recommended no increase or only a few targeted increases in executive compensation. When this Commission recommended a general increase in November of 2014 (2014-1), it was rejected by the County Council. We understand now that in our diligence to meet deadlines we were asking a decision be made before all relevant budget data was available to the Council. This year, we are attempting to time our submission to better suit the budget deliberation cycle of the County Council. Having reviewed the data and records we recommend increases of in most cases eleven point two percent (11.2%), which represents the accumulated Consumer Price Index (CPI) increases in Honolulu (BLS.gov) since 2010. Again, this represents accumulated increases in the Consumer Price Index for each of years 2010 through 2014 as depicted below. This simply gets folks to where their dollar was in 2010.

Council Chair Rapozo: Hang on Sheri. You keep looking at that light. You are not on the clock because this is obviously your Resolution. So you can proceed and do not worry about the time.

Ms. Kunioka-Volz: Okay. While one reason for the rejection of last year's proposal from this Council was timing, another might have been lack of information. Attempting to forestall that, we are providing Exhibit A titled "2016 Salary Recommendations County of Kaua'i." For ease of reading and comparison, we have organized positions in tiers. These tiers, in effect, existed previously where certain Managers have the same salary. We have been simply called out and identified here as tiers. Also, where before there were five (5) tiers of Managers in the same maximum pay level, there are now four (4) tiers. Deviation from the eleven point two percent (11.2%) CPI is explained by movement between these tiers and other circumstances, some of which are pointed out. The change in tiers. The Director of Human Resources shift to Tier III from Tier V; Director of Economic Development shift to Tier IV from Tier III; Director of the Liquor Control shift to Tier IV from Tier III; Boards and Commissions Administrator, the elimination of Tier V changed to Tier IV; and Housing Director shift to Tier III. The other higher increases such as the Mayor, the increase to the level of the lowest paid Mayor in the State of Hawai'i; the First Deputy County Attorney, competitive pressures and retention. Deputy County Engineer – Public Works, recognition of licensing requirements; the Deputy Engineer – Water Department, recognition of licensing requirements; Deputy Director of Finance, increase duties and risk management; Deputy Director of Parks and Recreation, the Department size; the Deputy County Clerk, the competitive pressures and retentions; and Deputy County Attorneys, competitive pressures and retentions as well. The lower increases are the County Clerk because of the increased received in 2009; County Auditor, increase also received December 1, 2009;



Prosecuting Attorney, the lower increase to bring in line with County Attorney's Office; First Deputy Prosecuting Attorney, lower increase to bring in line with County Attorney's Office; Deputy Chief of Police, increase received in July, 2012; and Deputy Fire Chief, the increase received in July 2012.

So note Council Chair and members, we simply note that an increase in line with all others is being recommended. The increase will not be effective until the new Council term begins. The Commission took its charge seriously and has spent many hours questioning the Administration, reviewing, discussing, and considering information requested and provided to determine the best course to recommend for the County of Kaua'i. We considered existing compensation at other Counties in the State and solicited commentary from them. We submit this Resolution in good faith with the intention to secure and maintain a rigorous and robust upper level workforce, skilled, prepared, and willing to serve a community that is both the Kaua'i we have known and loved for decades, and one that has changed significantly in even the past ten (10) years. Kaua'i is on the map now and now known globally more than ever. Demographics in our population and how we utilize the island's private and public infrastructure and lands have expanded as data has shown. We are now a place where people from around the world come to live and not just visit. Our business community and how we earn a living is no longer limited, but more diverse than we can see daily. More people use our outdoors and waters for recreation. We need to develop strategies for keeping our island healthy and safe in a time where larger forces such as climate change have been a huge influence in how we live. There is more change to come. It is imperative that we effectively orchestrate all services with the highest level of public service expertise in place.

An overriding consideration was fairness for our County Administration and the desire to advocate quality of services. At first blush, this is a sizeable increase in total possible outlay until we stop and think the last time the Administration pay structure was increased was December 1, 2008. This total increase of roughly twelve percent (12%) then translates to only a one point six percent (1.6%) for each year. To reiterate, our charge is to propose the maximum range of pay for each position. We are relying on the Administration to determine performance and the appropriate pay given that ceiling. In all, while the increase recommendation is large on a percentage basis, it is modest in the increases if the increases were taken year by year from 2008 when the last increases were granted.

Council Chair Rapozo: Thank you. Any questions for the Salary Commission? Councilmember Kagawa.

Councilmember Kagawa: I just have two (2). First of all, the total sum of all of these increases, is that four hundred ninety-two thousand dollars (\$492,000), almost five hundred thousand dollars (\$500,000)?

Ms. Kunioka-Volz: Yes.

Councilmember Kagawa: That is the total of all the proposed if this Resolution passes?

Council Chair Rapozo: Councilmember Kagawa, it is five hundred twenty-one thousand eight hundred ninety-eight dollars (\$521,898).

Councilmember Kagawa: Five hundred twenty-one thousand eight hundred ninety-eight dollars (\$521,898). That is on page?

Council Chair Rapozo: That is on the last page of Exhibit D.

Councilmember Kagawa: Last page of Exhibit D.

Council Chair Rapozo: Okay?

Councilmember Kagawa: Got it.

Council Chair Rapozo: That is including the fringe.

Councilmember Kagawa: Oh, including the fringe?

Council Chair Rapozo: Yes. The salary itself is three hundred sixty thousand one hundred seventy-eight dollars (\$360,178).

Councilmember Kagawa: Second question, did the Commission look at another scenario where we did not go for across the board analysis, rather more targeted like pay increases or we did not look down that road? I think as we are struggling with funds, we are broke right now, seriously. If you look at the private sector, they give raises based on who they feel they need to retain and who is performing. I am looking at rather than paying out the whole five hundred thousand dollars (\$500,000) pay raise each year, did we look at something that was less impactful to the taxpayers, but still necessary to retain in some cases Chiefs of Police where the inversions are just far greater than they should be because we acknowledge from the 1980s, there has always been inversion in every Department. County Engineer, Director of Finance, and Chief of Police. I am wondering did the Salary Commission, and you folks did great work because that is how we normally look at it, is to look at everybody all in one. But I am wondering if we did another scenario.

Ms. Kunioka-Volz: Well, I believe we did and that is why some of the increases were given in 2009 and 2012.

Councilmember Kagawa: Okay. Thank you.

ROBERT CROWELL: Just to add to that, I think we have to remember that this is something that is the maximum we are asking. This is something that is the maximum. Now, each Commission or the appointing authority

may give their Department Head something less than the maximum. They are charged with that duty. So when they rate a person, let us say as you mentioned that so and so wants a raise or gets this raise because he is doing a good job, then so be it. That does not mean he has to get the maximum, and that is what I think we are presenting, is your maximums.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: For the record, that was Mr. Crowell.

Mr. Crowell: Oh, I am sorry.

Council Chair Rapozo: Thank you.

Councilmember Yukimura: I do have some questions. First of all, thank you very much to the Salary Commission. I think you did a very good job and I appreciate all the time and thought went into it. My question is, Sheri, you said that you thought about looking outside of the State for comparables and choose not to. I just wondered what the reason for that was.

Ms. Kunioka-Volz: Cost, primarily. We get that back in...

Councilmember Yukimura: The cost of doing the research?

Ms. Kunioka-Volz: Right to contractor another consultant. That was done back in 2007, and basically this was just following what that study was back in 2007.

Councilmember Yukimura: Okay. Thank you. Also in terms of a rigorous and robust executive management leadership, I noticed that in the job description where your Exhibit E where you talk about qualifications of executive appointees, there is no description for many of the Deputies, for Transportation Director, Elderly Affairs, and Housing Director. I wondered why?

Ms. Kunioka-Volz: This is by Charter.

Councilmember Yukimura: I know, but there is still executive level leadership and the Salary Resolution covers those salaries.

JAY FURFARO, Boards and Commissions Administrator: Councilmember, Jay Furfaro, Administrator for Boards and Commissions. I can assure you that and I can have delivered complete sets of performance as well as job descriptions for all of the particulars here. From the Charter, there were Charter changes. As you remember, Housing broke off from the Office of Community Services, it was all

combined, where Transportation did not break off, and that is some of the explanations, the changes in the Charter. But if you would like, I could submit and the Commission had a total scope of job duties related to each position. I can have that delivered today.

Councilmember Yukimura: That would be good. The reason that I ask is because the Commission in 2007, acknowledged the concern about qualifications and the need to hire and screen candidates for these jobs in a very professional way. That is why I believe they instituted the annual evaluation process because up until then, I do not believe the appointing Commissions or even the appointing Mayors and Managing Directors or at that time, Administrative Assistants, were doing any kind of evaluation. In conjunction with the increase in salaries, there was an effort to also increase the professionalism of the job descriptions and the procedures by which performance is evaluated. I am just thinking that same thing whether it is Economic Development or Deputy Planning Director or Housing Director, that there needs to be really high standards for recruitment and selection, and that these descriptions and requirements help to do that. For example, you have the Director of Human Resources described and I do not know. Maybe that is described in the Charter. Whether it is described in the Charter or elsewhere is not of concern to me. It still is executive level leadership, and it is in the salary ordinance. It seems to me that the quality control, if you will, needs to be across the board. In fact, my other question is the change in tiers, is there somewhere that explains the rationale for the change in tiers?

CAMILLA MATSUMOTO: Excuse me. Cami Matsumoto. We tried to, in the preamble, describe the change. We tried to make it as simple as possible because this exploration of positions and roles was quite daunting. I mean, it is not cookie cutter because as someone said earlier this morning, people do far beyond their jobs and their roles expand as their need comes about in the community. So to answer your question, beginning on page 2 of the preamble, we tried to explain the sequence of the tiers and we looked at salaries. We tried to make it as organized as possible for you to be able to look at the different positions.

Councilmember Yukimura: Okay. I mean, like Director of Economic Development, shift from Tier III to Tier IV. I agree that we need a very high level of that kind of leadership. But then there is no job description and I do not even know if the qualifications required are rigorous enough to that kind of selection. Even the Director of Parks and Recreation, there is no requirement for expertise in the parks and recreation. It just says, "a minimum of five (5) years of responsible administrative capacity."

Ms. Matsumoto: I hope this helps. May I speak to that?

Councilmember Yukimura: Sure.

Ms. Matsumoto: This goes back to the when I was on the Planning Commission. I was involved in updating the evaluation system for the Planning Department. It was a project that took well over six (6) months because it was very detailed. We looked at different positions and the roles and responsibilities. I believe that every Department now has their evaluation in place and that the job descriptions are linked to the evaluations. I found that they were quite intricate and we as a body, began to look at that. It was, as I said, every position is not cookie cutter. There are so many roles and responsibilities within each position.

Councilmember Yukimura: Okay. But I think in Human Resources management itself, you have to have a requirement of certain expertise in the subject area, and that is not required in Parks and Recreation. Then you select and then you evaluate according to the requirements of the job. If the requirements of the job are not sufficiently rigorous, then your chances of getting that kind of management are less. I thought this whole process is to professionalize the County system and I guess I am recognizing there are some gaps here. I will take a look at the descriptions that the Boards and Commissions Administrator is going to provide. But I think I am asking about how we are reaching the goal that has been set out by the Salary Commission itself starting in 2007.

Ms. Kunioka-Volz: We have a tier chart. It was a guidance that was used.

Councilmember Yukimura: Okay. Is it in our attachments?

Ms. Kunioka-Volz: No.

Councilmember Yukimura: Oh, okay. Can we make that available to the Councilmembers before you explain it, and maybe Chair, we can go on to other questions and then come back to that when we get copies?

Mr. Furfaro: This particular piece is based on the fact that the tiers were compressed, as we said, and obviously it relates to the responsibilities that you talked about. Higher tiers deal with quality control, loss prevention, and risk management.

Councilmember Yukimura: Judgment.

Mr. Furfaro: Yes, and that obviously is the ones that encapsulate the Chief of Police, the Fire Chief, Finance, as we deal with insurance and so forth. But that was the guidelines and these are being drawn on the job descriptions that we have. I did send for them.

Councilmember Yukimura: Okay. I understand what was just said, but what seems to be missing is a job description commensurate with the tier levels in terms of risk management, judgment, and that kind of thing. For the Chief of Police,

we have those requirements of experience and even certification. We are looking at education level, and so forth for all our Department Heads. I mean, that is, I believe, a normal course of human resources analyses and position setting. I may agree with going from Tier III to Tier IV, but I do not see the job description and qualifications commensurate to the salary that we are going to. Thank you.

Mr. Furfaro: It is being delivered.

Councilmember Yukimura: Yes. Thank you.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you, Chair. Thank you, Commissioners, for being here and the hard work that you have done. I have a question about if we have an accounting of the inversions that have been discussed or have been looked at over the years for each of the positions that we are considering increases for? So that is my first question. The second question is around if we have done any study in terms of what that gap or the percentage of that inversion has been consistently or historically?

Mr. Crowell: We do have the inversions. As far as looking at the gaps over the years, I do not think we took that into consideration. But it is great.

Councilmember Chock: Okay. Can I have a copy of that study of inversions that you folks have done?

Council Chair Rapozo: I think, Councilmember Chock, what we will do is we will send a request to Human Resources (HR) to get what is not taken into account or it is very difficult when you look at it. Generally, it is the overtime and so we will send over something for each Department.

Councilmember Chock: Okay.

Council Chair Rapozo: The inversion issue only involves a couple of Departments, correct? I mean, Police and Fire, really?

Mr. Crowell: Police, Fire, and I believe Public Works.

Ms. Kunioka-Volz: Public Works.

Council Chair Rapozo: Public Works?

Mr. Crowell: And Department of Finance.

Council Chair Rapozo: And Department of Finance, too?

Mr. Crowell: I think so.

Ms. Kunioka-Volz: And HR.

Mr. Crowell: I think their Accountant or Auditor, Procurement Officer, or something like that. It is on that sheet that we just gave.

Council Chair Rapozo: Okay. Yes, we will take a look at that. I am sorry Councilmember Chock, I just wanted to follow-up.

Councilmember Chock: No, that is okay.

Council Chair Rapozo: As far as the overtime, I understand that the Salary Resolution dictates the cap. So no one can make more than that. So one would assume that there is no overtime compensation for Department Heads, that this Resolution applies to. How does the County address the Department Heads that do work beyond the forty (40) hours a week or work on weekends? Are they getting compensation (comp) time, are they getting days off, or are any type of non-pay compensation? If you do not know, that is fine. We will ask. I do not want to guess. I want to know and we can do that by Department Heads. I just want to know if there is any kind of non-pay compensation for Department Heads that work overtime. If someone has the answer, I would be more than happy to take it.

Mr. Furfaro: Chairman, there are stipulated allowances that are attached to a few salaries allowing car allowance and other particulars that we can submit to you separately if you would like.

Council Chair Rapozo: Those are the ones that were identified in the prior Resolution?

Mr. Furfaro: That is correct.

Council Chair Rapozo: Okay. I am not talking about those. I am talking about...

Mr. Furfaro: Okay. But I just want to point out that this Resolution that we submitted makes reference to the fact since there are no changes in those allowances.

Council Chair Rapozo: Correct.

Mr. Furfaro: It was considered that for continuity, it would just carry over.

Council Chair Rapozo: Right. I am more concerned about...

Mr. Furfaro: To our knowledge, there is no differences other than those salaries and those allowances.

Council Chair Rapozo: Okay.

Mr. Furfaro: This worksheet that was passed out to you, this worksheet identifies all of that first category that dealt with loss prevention and risk management. In particular, the inversions for Fire, Police, and so forth are specified on this sheet. I am sorry to keep replacing the Commissioner.

Council Chair Rapozo: No. I appreciate that. I just want to ask if anyone has knowledge of how these Department Heads or anyone affected by this Resolution gets compensated.

NADINE K. NAKAMURA, Managing Director: Nadine Nakamura, Managing Director. As you said Chair, there is no overtime for people who are on this list. There may be some flex time when Attorneys have to work long hours or Department Heads work long hours. There might be some flex time in their work. There is no comp time.

Council Chair Rapozo: There is no comp time in all of the Departments?

Ms. Nakamura: That I am aware of.

Council Chair Rapozo: I guess that is the question to all of the Department Heads that I would like to send over. Go ahead, Councilmember Hooser and then Councilmember Yukimura.

Ms. Nakamura: I would like to clarify one point, and that is that for example, our Office of Elderly Affairs. She is not on this list, but she does receive comp time because she is a Civil Servant.

Council Chair Rapozo: I am only concerned about the positions on this Resolution, not the rest.

Ms. Nakamura: Right.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: Yes, it is a similar question, I guess, but in the inverse. It is my understanding that some of the positions on this list, the people might have second jobs or second income coming in. Is there any consideration for that or any is there prohibition about Directors or Deputies having second employment?



Ms. Nakamura: I do not think there is a prohibition. I think if there is a conflict, that they would go through Ethics Commission to make sure that second job does not conflict with their daily work. For the most part, there may be situations where they may have a second or part-time job, but for the demands of these jobs are such that it would be very difficult to carry on another job.

Councilmember Hooser: Right. My question is not about conflicts of interest in terms of having a private job that conflicts with their responsibilities. It is the time element. How many of these on this list would you say have second occupations?

Ms. Nakamura: I do not know off the top. I would say maybe one (1).

Councilmember Hooser: Okay. The second question, if I may? This is a different question. When the Salary Commission is looking at comparing from the private sector, looking at engineers or looking at management positions, do you look at, and you may have already answered this question. I apologize if you have. Do you look at the benefit package, the liberal vacation, health, that kind of thing, not just the money of the annual salary?

Ms. Kunioka-Volz: The comparison with the other Counties, they all have the same benefit packages.

Councilmember Hooser: Right, but in the private sector. There was discussion was had about certain engineers for example, that can make a lot more in the private sector than the public sector. I was just wondering if that was part of your discussion when you compared them to the private sector.

Ms. Kunioka-Volz: I believe it came with the Nash (Nash and Company of Palos Verdes, California) report.

Councilmember Hooser: Okay. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I am not sure how it is done in the private sector, but it astounds me that any one of the executive level would have a second job. It would seem to me that should be a requirement, if not in the Charter, at least by the Mayor as the leader of this County. I mean, the focus, time, and energy that is necessary to do this kind of high level management, and Mr. Furfaro explained the risk management, the cost, and the amount at stake in terms of our decisions that are made. It seems to me that this would be a requirement of these jobs that there is not a second job. I guess the recruitment of these positions are an important way of securing high quality and the salary levels would be important in recruitment. How about; however, the need for broad recruitment rather than just in-house

recruitment, no announcement, just a simple appointment. Is that a concern to the Salary Commission?

Ms. Kunioka-Volz: We only set the maximum pay range. Recruitment, I believe, is part of HR.

Councilmember Yukimura: But you made recommendations about evaluation.

Ms. Kunioka-Volz: The evaluation, we defer it to the...

Mr. Furfaro: The individual Commission.

Councilmember Yukimura: But it was your Salary Commission report in 2007 that led to the systemizing of the evaluation process, which was highly commendable, I believe, and appropriate because you are setting these salary levels to attract the level of qualification that we need and you also want to make sure that the performance is assured as well, right? So that is why you made some recommendations about evaluation. It seems to me you could make recommendations about recruitment. The reason I say this is the Council has been going through a process to recruit a County Auditor. It was very instructive for us to actually look at how we let out the word that these positions were available and that we were seeking people with high quality.

Ms. Kunioka-Volz: I do not know if that would be within our jurisdiction though. I believe that would be part of the Civil Service Commission.

Councilmember Yukimura: Maybe. Okay.

Mr. Furfaro: May I? Just so I can give my chair back up here. here are four (4) complete sets of job duties and job descriptions for the County. The Fire Department is being reviewed right now by the Fire Commission as well as there is the HR Department reviewing the Department of Parks and Recreation. That will bring you current on that.

Councilmember Yukimura: Thank you very much.

MATTHEW M. BRACKEN, First Deputy County Attorney: Matt Bracken. First Deputy County Attorney. I am the attorney for the Salary Commission. To address your question, Councilmember Yukimura, that question did come up in Salary Commission. The Salary Commission's authority is set in the Charter and the Charter basically allows them to set maximum salaries.

*(Councilmember Hooser was noted as not present.)*

Mr. Bracken: It does not give them the authority to set specific requirements for the employees. So that is basically left up to HR. The Salary Commission's authority is essentially just to set the salaries.

Councilmember Yukimura: Thank you, Matthew. The job is of setting qualifications is HR's job?

Mr. Bracken: That would be HR or the appointing authority. I am sure they work in conjunction somehow.

Councilmember Yukimura: Or the Charter.

Mr. Bracken: Correct.

Councilmember Yukimura: Yes. However, the Salary Commission could make recommendations?

Mr. Bracken: That was included in the Resolution of 2007. But that essentially is the authority of HR. The evaluation of individual employees was included in former Salary Resolutions. It is not included in this Salary Resolution because essentially the Salary Commission does not have the authority to include it inside the Resolution.

Councilmember Yukimura: So the Salary Commission in 2007 was outside of its jurisdiction?

Mr. Bracken: The Resolution itself included, basically language that was under the authority of HR. I mean, the Resolution of 2007 set the maximum salaries, but anything outside of setting maximum salaries that is basically the authority of a different Department.

Councilmember Yukimura: But HR can recommend inclusion of those items in the Salary Commission Resolution?

Mr. Bracken: I am sure they could make the recommendation. It would be a Salary Commission's decision what to include inside the Resolution.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Now hang on Matt because I am really confused. You are saying that the Salary Commission Resolution of 2007, the Commission did not have the authority to set those additional compensation items?

Mr. Bracken: No. I am sorry, that is not what I am saying. The Salary Commission has the authority to set the salary and then the additional compensation.

Council Chair Rapozo: Okay.

Mr. Bracken: I cannot remember the exact wording of what it is called. But they can set salary and the additional compensation. It was just in regards to the requirements of the evaluation of the individual persons.

Council Chair Rapozo: Oh, okay. I read your opinion, which was waived by the Commission. So it is public record that the items on the 2007 Resolution remains as far as the additional items of compensation?

Mr. Bracken: Correct.

Council Chair Rapozo: Okay. I do have a question and this is regarding the sheet that was just passed out, the salary comparisons and it is showing the inversions. These positions, are those positions listed on this chart, the base salaries? Detective Lieutenant, the base salary is one hundred seventy-one two hundred sixty-two dollars (\$171,262)?

Mr. Crowell: I am not really sure, but I do not think so.

Council Chair Rapozo: I do not think so either. I guess what I am asking is that when...

Mr. Furfaro: We will give you the base. What is on there, is the total earnings for a twelve (12) month period.

Council Chair Rapozo: Okay, and likewise all of the Director of Finance, those are inclusive of overtime or is that...it is very hard to decipher. You have one (1) column that says "fixed salary," but the actual columns may not be fixed salary, correct? It would be significantly less.

Mr. Crowell: You are talking about this sheet?

Council Chair Rapozo: Yes, either one. The front or the back. You have the listed the Department Head and then you are showing the salaries of various positions within that Department. I am just curious because you are relating the actuals to the fixed salary of the Department Head. I want to see what the fixed salary of those positions are. If they are overtime, I think there are ways to handle overtime, I guess, is what I am trying to say. I am just curious how many of these positions, that is their base salary versus salary plus overtime because I am just looking at this Detective Lieutenant. This thing says the Detective Lieutenant is one hundred seventy-one thousand two hundred sixty-two dollars (\$171,262). I do not

know what the base salary is for that Detective Lieutenant is, but I do not think it is one hundred seventy-one thousand two hundred sixty-two dollars (\$171,262). I guess my question is are we addressing that issue? Is it because we do not have enough Lieutenants? Likewise, the Fire Department has a bunch. The Department of Public Works, Civil Engineer VII, one hundred twenty-five thousand dollars (\$125,000) versus one hundred seven thousand dollars (\$107,000) for the County Engineer. Is that one hundred twenty-five thousand dollars (\$125,000) base or base plus overtime? I am just curious.

*(Councilmember Hooser was noted as present.)*

Mr. Furfaro: We will get you that piece, Chairman. But I want to make sure that we are reading the heading. The fixed salaries for the people that are covered in the Charter Commission proposal are the fixed salaries for those Department Heads. When you go out to the year 2014 and 2015, if you look at the heading, that says that is the actual earnings because of the other benefits premium pay, overtime, and so forth. That is what the comparison is made of. We can provide and I think Managing Director Nakamura is giving something to your office that shows the base salary for those positions. But this title says the actual for the year 2014-2015 as compared to what the fixed salaries are for their supervisory people, and that is the comparison.

Council Chair Rapozo: What I am asking for is the fixed salaries.

Mr. Furfaro: We have it for you. But this is what causes the inversion.

Council Chair Rapozo: I guess I am trying to understand why is that being caused? Is it because management? Is it because we do not have enough people? Is it because we are allowing people to work overtime when they do not have to work overtime? I think that is my concern and all comes back to kind of what Councilmember Yukimura was talking about earlier. When you put in these requirements, management requirements, and it all comes down to...I mean, yes. I could have our staff here work Saturdays and Sundays too and let them rack up the overtime. There would be a justification to. That is where, I guess, I am. Is it necessary overtime? Have we looked at the reasons why this overtime is existing? Have we made any adjustments? Have we come to the Council and say, "Hey, we need more position because the overtime is killing us?" No. What we have done is we have cut overtime in years past. I guess for me, that is what I want. I want to see the base salary and I think we may have gotten it right now. Thank you. Is this from our staff? Okay. Thank you. Any other questions? Councilmember Kagawa.

Councilmember Kagawa: Thank you. Just going back to my question about targeted increases because of the financial predicament we are in and trying to do the right thing. I looked at the comparisons between the lowest other County salary. I came up with Big Island on almost all of them, that Big Island was the

closest aligned with our salaries. Well, the lowest of the three (3) Counties in almost all cases except the Water Department Director where Maui was next lowest and Housing. I will just read off some. The Mayor on Kaua'i makes twenty thousand dollars (\$20,000) less than the next lowest County, which is Big Island. The other huge ones are the Chief of Police making sixteen thousand dollars (\$16,000) less than Big Island; the Deputy Chief of Police making twenty-one thousand dollars (\$21,000) less than Big Island; the Fire Chief making twenty thousand dollars (\$20,000) less than Big Island; Water Department Director making fourteen thousand dollars (\$14,000) less than Maui, which is the next lowest, and the next one that is glaring is the Managing Director, which is nine thousand dollars (\$9,000) less than Big Island. We even had some where we make more than the rest of the islands, and that would be the Housing Director making nine thousand dollars (\$9,000) more than Maui and Big Island, Economic Development and Human Resources making four thousand dollars (\$4,000) more than Big Island. Then of course our Clerk's Office. Our Clerk makes fifteen thousand dollars (\$15,000) more than Big Island, our Deputy makes four thousand dollars (\$4,000) more than Big Island, and our Council makes five thousand dollars (\$5,000) more than Big Island.

I just looked at that comparison and then I realized the glaring needs are actually the Chief of Police and the Deputy, the Fire Chief and the Deputy, and the Mayor and the Managing Director. That is the only glaring deviations from the lowest other County in the State. But not to say that Big Island is doing theirs right. But did you folks look at that comparison as well that I just did? Maybe your determination was that well, that is not something good to use because Big Island probably for political reasons or what have you or financial reasons, have like Kaua'i, delayed their increases. I do not know what is your response to why did we not use the lowest other County. I think that way, I guess, taxpayers can buy the reasoning. I do not know if you have a response to that.

Ms. Kunioka-Volz: I know that some of these like on Big Island, some of their Departments do not have the same responsibilities like their County Engineer or their Department of Public Works, I believe, does not do the trash.

Councilmember Kagawa: As much?

Ms. Kunioka-Volz: Yes.

Councilmember Kagawa: Oh, okay.

Ms. Kunioka-Volz: Also, I believe they are not HR. On the Big Island, I do not think it is a HR Department. I think it is still Personnel.

Councilmember Kagawa: Oh, okay.

Ms. Kunioka-Volz: They do not do all the training and the other tasks.

Councilmember Kagawa: Okay. I guess I am just trying to look at some way where we can take care of the immediate needs and then cut the proposal because I think five hundred thousand dollars (\$500,000), given our current financial situation, might be too large of a piece of cake to bite right now.

Mr. Crowell: Can I just add? I am sorry, Councilmember.

Councilmember Kagawa: You may.

Mr. Crowell: I was on the Commission back in 2007 and something that, me personally, I hope does not take place again is what happened back then. Back then, we came in and the amount we had to just go equal to everybody else was twenty-five percent (25%). The Mayor was making eighty thousand dollars (\$80,000) at the time. The lowest Mayor at that time was over one hundred thousand dollars (\$100,000). So we came in and the Council approved the twenty-five percent (25%). I hope we do not get into that predicament now and into the future. Right now it is at eleven percent (11%). Come next year and each year, we are going to be behind the ball on all of these. I just hope that we do not get to that predicament again.

Councilmember Kagawa: I understand. I just hope you understand that back in 2007, we had surpluses exceeding fifty million dollars (\$50,000,000). Right now, our surplus is six million dollars (\$6,000,000). We do not have forty-four million dollar (\$44,000,000) extra moneys that we had perhaps in 2007. Thank you. Thank you, Chair.

Council Chair Rapozo: Any other questions for the Salary Commission? If not, thank you very much.

Ms. Kunioka-Volz: Thank you.

Council Chair Rapozo: I am assuming you will be hanging around. This is going to be referred to the Committee next week, but we are going to have discussion. We may have more questions as the day goes on. Thank you. Anyone wishing to testify before we call up Mauna Kea? If not, Mauna Kea.

MAUNA KEA TRASK, County Attorney: *Aloha* Honorable Chair and members of the Kaua'i County Council. For the record, Mauna Kea Trask, County Attorney. Thank you for this opportunity. I would like to speak today to advocate for the salary increases for the Office of the County Attorney, specifically the Deputies. My first job, my employer Judge Richard Kalani Ohuo Perkins, whom I have great respect for told me that being an attorney is not a 9:00 a.m. to 5:00 p.m. job. That has ringed true to me throughout my ten (10) year career. Listening to some of the questions today, I can tell you that currently the County Attorney's salaries are not complete. I want to be clear, we are not looking for parity with the private industry with this request. That is unreasonable, I think. You cannot afford two hundred fifty

dollars (\$250) an hour or three hundred dollars (\$300) an hour for a Deputy County Attorney. We are simply looking for parity within the County. We want to be paid the same as other attorneys on County payroll. You have the Office of the Prosecuting Attorney. We want to be paid the same as other government agencies, the Public Defender's Office. We are not Civil Service. We get no overtime. We get no comp time. We do encourage though, however, pro bono work consistent with Hawai'i State Bar Association (HSBA) and Hawai'i Rules of Professional Conduct guidelines. This office wants to open up legal access and that pro bono work is approved and deals with issues that do not conflict with the County this. This is a low-income type access to justice with the judiciary program as well as low-level family court things that the attorneys want to do. I encourage that. We recruit broadly in filling recent positions, we have looked at attorneys from Samoa to Washington D.C., from the most eastern to the western territories in this Country. It is very difficult and, in fact often times we cannot attract attorneys from other State or County bodies due to the special character and salaries of this job. It is a full contact job. A lot of attorneys, they go in front of their legal venue and they deal with one (1) Judge. I remind people that politics is the third venue. Looking at you right, I get seven (7) Judges, often. There is no job security in the Office of the County Attorney. We are all appointees and I think that is a good policy. Also, we deal with a huge debt in order to be an attorney. In 2010 according to my research, the average law student debt was ninety-seven thousand three hundred six dollars (\$97,306). In 2016, the average law student debt was one hundred forty thousand six hundred sixteen dollars (\$140,616). You compare what we do with the Office of the Prosecuting Attorney. Simply and anecdotally, the Hawai'i Revised Statutes comprised of eight hundred fifty-three (853) chapters, approximately. Criminal law is the last chapter. It goes from Chapter 701, including post-conviction proceedings, to Chapter 853. County Attorneys deal with one (1) to six hundred (699). We do not have discretion to charge. We do not have discretion to plea. May I continue?

Council Chair Rapozo:

Go ahead.

Mr. Trask:

We do not have discretion to charge our cases. We do not have discretion to plea our cases. We do not drop cases. We fight cases now. We service seventeen (17) Departments, seventeen (17) Boards and Commissions, two (2) branches of government, and approximately thousands of employees. This body has said and I agree, that good compensation should be done for good leadership. I ask you to look at the record. I ask you to look at what we have done since December 2014 in listening to you, welcoming this body's guidance and criticism. As you will hear further in the budget in these coming months, this pass fiscal year, the Office of the County Attorney was able to save three hundred one thousand dollars (\$301,000) in Special Counsel encumbrances as compared to Fiscal Year 2014-2015. We were able to secure approximately one hundred fifteen thousand dollars (\$115,000) in collections, moneys due to the County. We also got one hundred twenty-five thousand dollars (\$125,000) back from insurance for cases that should have been defended better and that we are committed to no longer make those same decisions in the future. It has been said today that the raises combined total for



everybody in the County is approximately five hundred twenty-two thousand dollars (\$522,000). If you look at these numbers that I just told you, out of the Office of the County Attorney alone, in savings and moneys realized for the County, and these go to General Fund. These are not moneys going back to the Office of the County Attorney. We do not keep one hundred fifteen thousand dollars (\$115,000), we do not keep the one hundred twenty-five thousand dollars (\$125,000). In savings and bringing money back, we have five hundred forty-one thousand dollars (\$541,000) for this County. This is after reducing our budget by seven percent (7%) and cutting our Special Counsel budget in half.

Deputy County Attorneys are ubiquitous. Talk to your Departments, please. Talk your Commissioners. I will rest on their recommendation. Look within yourself, the service we have done for you. I will rest on that recommendation. Recently, I have seen Deputy County Attorneys work on weekends, put in twelve (12) hour days, stay late, and there is no further compensation. They do it because they love Kaua'i and Kaua'i deserves it. It was said earlier in regards to nurse from this body, that well-paying jobs should exist and go to Kaua'i kids. I agree. I have seen kids from Kaua'i get their education and not able to afford to come back with the kind of debt that they have to carry with the kind of jobs available. There is a vacuum coming. My aunties and uncles growing up, they are going to retire from this legal community. You need to encourage and support local kids to invest in this island, buy houses on this island, and work on this island because although a Deputy County Attorney's life is short, if they are invested and if they stay here, that benefit goes to the public. The people of Kaua'i need good legal representation. They need that here. If they do not have it here, if they do not have people who understand how the County works, the County's needs, the County's culture and character, the only thing available is going to be O'ahu. O'ahu will fill that vacuum, California will fill that vacuum, and you will see outside legal opinions and outside legal culture come and change the face of Kaua'i. I ask you today for fairness and parity not with the private industry, but with other County and government agencies. Thank you.

Council Chair Rapozo: Thank you, Mauna Kea. Let me just start. That is one of the concerns, and I think Councilmember Yukimura brought it up earlier. When you look at this list, your Deputy County Attorney is being asked to raise their salary to one hundred nine thousand five hundred sixty dollars (\$109,560). That is what the request is being made, to increase the Deputy County Attorneys' pay salary to one hundred nine thousand dollars (\$109,000). At the same time, the Director of Economic Development, one hundred nine thousand dollars (\$109,000), same salary. Department of Parks and Recreation, with no requirements other than experience working in government, one hundred nineteen thousand dollars (\$119,000). I think I share the concerns of Councilmember Yukimura, I understand, and the Salary Commission did a great job. They put it across from 2008. It is an annual increase of one point six percent (1.6%), much lower than cost of living increases. I understand that we are way behind on the compensation. But we do not have the control. This body here that has to approve this Resolution. We do not have the control of who gets selected. You are here today not because the Administration

looked for a better direction or better leadership. In fact, the Administration fought to keep the old leadership. It is this Council that put the pressure on and demanded a change in the administration of the Office of the County Attorney because we have that authority under the Charter. But we do not have that authority going across the other Departments. We do not. That salary is given and the Administration hires who they want. The Commissions hire who they want. Some of them do not even have requirements and yet, it is like the Manager of the Water Department Engineer, you have got to be an Engineer. He is capped at one hundred nineteen thousand dollars (\$119,000), which some may argue is substantial. I know the public is going to say it is a lot of money. Well, considering what that person does, one hundred nineteen thousand dollars (\$119,000). Then again, looking at the parity with some of the other positions that do not require an Engineering degree. It does not require anything other than knowing the Mayor, and that is where the frustration and difficulty for me is hey, I understand the time is now. The Mayor was absolutely correct when he came up here and he said "there is never a right time, but the right time is now" because we are way behind in compensating our leaderships.

But again, I will use your office as an example. My colleagues will agree that within a month of you taking office, contracts for Special Counsel were canceled saving this County hundreds of thousands of dollars. Is that worth your pay? Absolutely. The cases that we choose to go straight and litigate in-house with your staff that you put together saved this County and the public does not know this, hundreds of thousands of dollars, potentially millions in legal fees and settlements. I am in agreement with you. How do I say your Deputy pay should be the same as the Director of Economic Development? This is not personal. This is not about people. It is about the responsibility and the accountability of our employees in these positions, not about the man or woman in that position. But it is pretty difficult for me to justify that your Deputies should be getting the same as the person who runs Economic Development, not that his job is any less important. But I am talking about the requirements. The Chief of Police and the Fire Chief. They go home at night. They do not know the next day they are going to get a lawsuit. When things happen to them, it is life-changing. I understand. Where is the parity? Again, the Water Department Engineer and County Engineer. County Engineer one hundred twenty-two thousand dollars (\$122,000). I mean, that person has a lot of responsibility plus he has got to be an Engineer like a Deputy County Attorney, you have got to be a lawyer. You cannot just hire a friend unless they are an attorney. I feel the pain and I do not know where this discussion is going to go as we move forward, but I think what you bring up is a good point; parity and how do we assign these numbers to different positions. Anyone else have anything for Mr. Trask? Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo:

Councilmember Hooser.

Councilmember Hooser: Chair, if we could kind of restate the process on this, the ability of the Council to amend the Ordinance or not or the Resolution.

Council Chair Rapozo: Yes.

Councilmember Hooser: The timing in terms of the budget. I think it would be important to me, if I knew where this money was going to come from, if the Administration has a plan other than raising taxes to find that five hundred thousand dollars (\$500,000) internally or not. If you have that information or call somebody else.

Council Chair Rapozo: The Council has to act within sixty (60) days of the adoption of the Resolution by the Commission. Basically, we have to act by April 5<sup>th</sup>. It will take four (4) votes to approve it if we just want to approve it as-is. Two (2) things we can do. Number one is four (4) votes would pass it or if we did nothing, it would pass. We could reject it in whole with five (5) votes. If five (5) of us says "we do not want any," then it will die, or we can reject it in part. In other words, if we wanted to reject certain lines, we could do it with five (5) votes. As far as the funding, obviously this would have to be funded in next budget. So either the Administration could show us where the money is coming from or this body, should we approve these raises, would have to find where the money was coming from or will come from. I would suggest that if any Councilmember is looking at supporting this, that they would be looking for five hundred some odd thousand dollars to pay for it from somewhere else. That is kind of where it is at. That is the timeline. April 5<sup>th</sup> is the deadline of this body. It is going to go back to the Committee next week. We will have hopefully have all seven (7) members. We can have a discussion, we will take public testimony again, and we will go through the normal process. But the end of the day, this Resolution does not require a public hearing. It does not require anything else other than the vote of the Council. This Council could request a public hearing if we felt we needed one. But at this point, four (4) votes to pass it in its entirety or five (5) to reject in whole or in part. I hope that answered your question.

Councilmember Hooser: Yes it did. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I am thinking that given the magnitude of this issue, we should send it to a public hearing.

Council Chair Rapozo: What I would suggest is we have that discussion next week with the seven (7) members.

Councilmember Yukimura: Well, the thing is with the ticking of time, it would be useful because we have to give twenty (20) days' notice? Sorry. I am sorry, ten (10) days' notice. So it would be better if we publish and people know when it is going to happen and then we have sufficient time to make a decision. We can still

have it in Committee, I guess, and still set a public hearing, have it come back to Committee.

Council Chair Rapozo: I will leave it up to the body here.

Councilmember Yukimura: My main concern is that we do not act on the day that it first appears on the agenda. That does not seem right.

Council Chair Rapozo: Well, your hope and my hope really does not matter. It is the votes of the members of the body. We are going to let the chips fall where they fall. Again, that is why I want to refer it when we have seven (7) members and not even think about doing anything with it today other than referring it because I believe it is that important. The public will have an opportunity to testify at the Committee Meeting and then one (1) more opportunity at the Council Meeting the week following. That will give us some opportunity to get our questions answered from the Administration or the Salary Commission in the meantime. Councilmember Kagawa.

Councilmember Kagawa: Are we in discussion?

Council Chair Rapozo: Yes.

Councilmember Kagawa: I just have some comments while everyone is here. First of all, I want to thank you all of you for attending and especially want to thank the Salary Commission. They are appointed with trying to do exactly what they did. They did intensive research comparisons. We have a strong Salary Commission. I am very impressed with their work and their make-up. I feel quite uncomfortable trying to go through this and seeing who is deserving of what. But when the financial status of this County is the way it is, I think we have to get into that place of uncomfortableness and trying to create a sustainable future for our island and our residents. It is like dealing with finances at home. When you are broke, what do you do? You try and spend your money wisely and pay for the necessities, and push off those that are not necessities until you have the available funding to do it. For me, I feel a lot of salaries even with given these increases by the Salary Commission, will still be facing inversion where if a Department Head has a chance, an opportunity with a retirement or what have you to take the Civil Service job. If finances are their priority at the time with their family, they will move and then we will lose a potentially top-notch leader because of the pay inversion. That is always concerning. We want to keep good leaders that are doing good work for our County.

But I just want to point out too that there are some differences with the Federal government and with the State government. The Federal government has, I think, a nineteen trillion dollar (\$19,000,000,000,000) deficit now. They just print money and they can pay for salary increases that perhaps are way above what similar work would pay for the County. State government is no different. All they do is if they

have a deficit, they push it to their Other Post-Employment Benefits (OPEB) and do not pay their OPEB. I think they have been paying twenty percent (20%) of their OPEB and they are now at nineteen billion dollars (\$19,000,000,000), I believe, the State's shortfall in their OPEB payments. This County has been responsible with our OPEB payments and our retirees. We have no deficit. We are up-to-date paying all of our retiree benefits as we should, and each year budgeting appropriately and not going into deficit and not taking away from somewhere that our future is going to have to pay for. Going forward, our financial outlook right now if we do not raise any General Excise Tax (GET) or property taxes is quite bleak because what we have is I believe seven million dollars (\$7,000,000) in pay increases next year, which is not accounted for. It is tough. I think we came up with an estimate of nineteen million dollars (\$19,000,000) right now if we took a picture right now, what is in our savings and we said nineteen million dollars (\$19,000,000). But you have to minus out the seven million dollars (\$7,000,000). We are at twelve million dollars (\$12,000,000). Every year, we seem to budget fourteen million dollars (\$14,000,000) or so more than our spending is. So we always have a lapse or excess of fourteen million dollars (\$14,000,000) in our budget. If you minus nineteen million dollars (\$19,000,000) minus seven million dollars (\$7,000,000), you get twelve million dollars (\$12,000,000), and then you use the fourteen million dollars (\$14,000,000) where we are normally at, we are at a two million dollar (\$2,000,000) deficit from where we normally are. That is concerning.

I think the Council Chair brought up a great solution is that every Department that these pay raises affect, if they could submit where those cuts would come from in their next budget, I think we would be at a place that this Council could decide if we accept the cuts and go for the pay raises or to fund it out of the Council's excess when we budget. I think it is a clear solution that he presented and that is one that I could support going forward. Having said that, I do not think we have time to wait until the budget. So that is why this timing difference really makes it tough for us. I would like the public to weigh in on their ideas of where we should go from here. Thank you, Chair.

Council Chair Rapozo:

Thank you. Councilmember Chock.

Councilmember Chock: Thank you, Chair. I am an advocate of paying people appropriately, and that is important for us to consider. I also realize that our County has not been financially healthy and that we are on the road to getting back. I think we have done an excellent job, our Administration. I think as you see the projections of where we have come from in this last term, we are making some good increases. Last time around, I just felt it was time that we bite the bullet and we did. I am a little bit more open this time around to consider some of the requests here. Am I considering all of them? No, not right now. That is why I think that we are asking all of these questions to see where we can and where we cannot. Do I think we need them? Absolutely. But it should be as we start to increase. I do not think we should turn the faucet all the way on at once. So maybe next year we can address all of these requests right now. A few things that really stand out to me in this

discussion and the thing is to address the root cause. There is discussion about the outcome of collective bargaining negotiations, which I do not think should be really factored into if we make increases for our leadership because in my opinion, those negotiations have not gone in the direction that we need to. That being said, what is the right amount of increase that we should be considering? While a lot of what we learned in our internal auditor process is that there are specific measurements that we need to have in place and safeguards in order to build capacity and have efficiencies. This is what Councilmember Yukimura is talking about, I think, and I support that. Some of things, I think are missing. So the evaluation of these positions are key maybe not within the purview of our Commission, but certainly we need to be within the purview of our Administration. There are ways that we can increase our efficiencies and capacities in these areas for each position all across the board, not just for leadership, every position. The truth is you can only do so much in twenty-four (24) hours. My expectation is not only skills and good leadership, but talent for the amount of money that we are asking to pay for. I am looking forward to it. I can tell you where I stand with this. I think that we will be looking at this in more detail. I would support moving forward on some of these requests. But I certainly will not support the Councilmembers' increases as well that is being represented here. Thank you.

Council Chair Rapozo: With that, I hate to do this, but we have to take a caption break. With that, we will take a ten (10) minute caption break, Mr. B.C. I apologize for the delay.

There being no objections, the meeting recessed at 10:36 a.m.

The meeting reconvened at 10:49 a.m., and proceeded as follows:

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: Thank you, Chair. I want to thank the Salary Commission members for their hard work. People do not understand. The public often does not understand the amount of work that goes in to these decisions and the pressure, if would, and the stress for the volunteers. I want to thank them for their good work and for everyone who show up in support of people in the County. It makes it difficult. We are looking at these raises and it is mostly, you say it is not about the people, but it is about the people. I want to appreciate the people working so hard for your County, the Directors, Deputy Directors, and I want to especially acknowledge the comments by our County Attorney. It made me really thing about those hard workers. There are many in the County that work those long hours and that are on this list. At the same time, there are positions on this list I kind of scratch my head and say, "Well, how come they are getting this amount and other people are not are not getting that amount?" I agree we need to look at that carefully. Much of what Councilmember Chock said, I agree with. I think I am open to looking at the list and trying to adjust it, if you would, or modify it so it falls more in line with what the County needs. I also agree with Councilmember Chock and I will not be supporting any pay raises for Councilmembers. There are others on the list that I will not be

supporting as well. Councilmember Kagawa, I thought also raised a good issue and it would be a huge help to me if the Administration could come forward with budget strategies to say “this is where we are going to get this  $x$  number of hundreds of thousands of dollars.” I have been consistent in my actions and in my message that I am opposing tax increases for local residents. I want to be consistent with that. For me to approve raises on one hand while fighting tax increases on another hand is not acceptable for me to do that. The only way I can do that is if I knew that it was fiscally responsible and within the budget. I look toward to the further discussion. It is always a tough issue. But I feel like we are on a path to get somewhere positive on this. Thank you, Chair.

Council Chair Rapozo:

Thank you. Councilmember Yukimura.

Councilmember Yukimura: Yes. I want to say that our County Attorney’s point that we need to have equity within the County is one I certainly agree with. I agree with the increases in the Office of the County Attorney to at least give equity, vis-à-vis the Office of the Prosecuting Attorney. I also want to acknowledge that there are amazing people at this executive level who are working extremely hard and giving their all for the betterment of the County, and I appreciate that. Councilmember Kagawa talked about a sustainable future. For me, a sustainable future depends on funding and sustaining good leadership. I do not think there is anything more important than that because it affects our rank and file. It affects risk management and County liability. It affects our budget tremendously. It is so important to have leaders who can, using the resources that we have, get maximum benefit for our people and good management means less risk. To me, you start with leadership. I strongly believe that proper levels of compensation are very important to the functioning of County government. As well, I feel the integrity of process, of recruiting and retaining leadership needs to be equal to proper compensation. You have one without the other, and it does not work. That is why I have been asking about the process. I believe there has been substantial progress since the 2007 Salary Commission report and also the creation of the Department of Human Resources because I believe now we have annual evaluations of every employee not just the executive management level, but all our employees, and that is part of best practices. I am glad we are on that track. But I am very concerned about job descriptions, minimum requirements, and recruitment because I believe those are also critical parts of providing quality leadership. To the extent that we can affect that by the Salary Resolution, I hope we can do something. But even outside of the Salary Resolution, I hope the various entities responsible for these parts of executive leadership management and recruitment will do their parts to constantly improve our County system.

Council Chair Rapozo: Anyone else? If not, let me start by saying next week we will have the Committee Meeting. We will have this item up at 10:00 a.m. So for anyone wishing that is watching out there or they want to participate, we will make this time specific at 10:00 a.m. to accommodate Commissioners as well as Department Heads and Department personnel. I also want

to thank Mr. Furfaro for clarifying. I used the number Councilmember Kagawa asked about the total cost and I stated number five hundred twenty-one thousand eight hundred ninety-eight dollars (\$521,898). That is not correct because the chart that was listed only listed the salaries for one (1) attorney but there is a total of nineteen (19) attorneys that would be impacted. The total amount and I am not sure if this salary, the additional amount of two hundred eighty-seven thousand fourteen dollars (\$287,014), includes the fringe? It does. The total fiscal impact, we are looking at about eight hundred eight thousand dollars (\$808,000). That would be the impact to the budget this coming year.

I think I have made my comments when Mauna Kea was up here. I do want to say the inversion is always going to continue. We are going to get some more questions sent across regarding specifics as far as the amount of some of these salaries and how many of them are attributed to overtime. I guess for the Administration as we move forward, there has to be a funding mechanism. I mean, we have got to have a fund mechanism for these raises. We cannot expect as Councilmember Kagawa said, to just keep piling it on and expecting to raise taxes and fees to accommodate the Departments. There has to be some offer of where this is coming from. Councilmember Kagawa as he does almost every week, talks about the financial position and the numbers. But I mean, there has got to be an attempt my opinion, to start to consolidate some of our Departments within the Departments and start to look at how we are going to decrease the cost of our County. That is where we have got to hit. We cannot continue to say "Oh, we need another position," "yes, we can reach this efficiency, but we need more people." That has got to stop. I will use the example only because it is in the presentation and the again, I really appreciate the Salary Commission. I remember being here when it did not pass and some of the Commissioners being very upset. I do not blame them. They put a lot of work into this and it is very compelling, I will say that.

If you just look at again in your packets, the Department of Personnel Services back in 2011, that Department had nine (9) employees. It had nine (9), and every Department had personnel people all over the place. They came to us to restructure and create Human Resources, which would pool everybody into one (1) Department. As of July 2015, based on the information here, there are seventeen (17) positions now in HR. Seventeen (17), and that does not include all of the personnel people that are in still in some of the Departments throughout the County. We heard it from the HR Director. I do not know it was budget or what last year. But she said, "Oh, we are still trying to get everybody to buy into the system." That is not management. When you are the Manager and you dictate the process, that is the process. If you do not like it, you leave. That is the kind of efficiencies I am saying. If you do not like it, then you need to find somewhere else to work. But we promised that HR was going to be put together and we were going to bring everybody in one (1) Department. I argued. I said "no" because like the Police and Fire, they have a whole different collective bargaining contract. They have so many different moving parts that you need a specialist in that Department. "Oh, no. We are going to bring them all into HR," and that did not happen yet. So I expect to see some consolidation from the



Administration. I have to tell you, I support the raises. I support the majority of the raises. I hate having to vote for Council raises. I may not be here next term, but I do not think they should be punished because it looks bad for us. I am going to have a hard time with that one. I do not know where I am going to go yet because today, if I had to vote, I am with Councilmember Chock. I could not support that. But why should future Councils be punished because we do not want to make that decision? I do not think that decision should be Council's decision to be made anyway. That should be Salary Commission. They should set it and forget it. That is how it used to be. The Council had no say in their raises. But that has changed. Now we have to vote for it or against it. That puts us in a very awkward position. But we have take it and we have to do it. We either say "yes" or we say "no." That is not fair for the next Council because anyone that...I mean, I am not going to pat my own back or anybody else here. But really, if you look at work that a Councilmember does, you folks all know. I still do not think why we should make any less than the Mayor. We more phone calls than the Mayor. He has more staff. Every week we have to come in front of the public. Why should we get less than the Mayor? That is just my position, but I am not going to propose that. I am just saying that people think oh, you are volunteers, you folks are part-time, really? Part-time? Come to the mall with me one day. Come to Costco one day and your ten (10) minute shopping trip becomes a two (2) hour shopping trip. I am not complaining. Do not get me wrong. I do not think that the future Councils should be punished because it is a difficult decision to be made. For the Administration, come back with some consolidation, come back with some methods or methodology of how you expect to pay for it. That is what my message is because the taxpayers should not be burdened with the one hundred percent (100%) funding of these increases. I can tell you there are ways. If you folks want me to make the consolidation cuts, I am more than happy to do so because I know where they lie. But it is up to the Administration to do that. With that, next week, 10:00 a.m. Councilmember Yukimura.

Councilmember Yukimura: I want to say about the 10:00 a.m., I appreciate a time specific. I think that really helps members of the community. I think you mentioned that would be also convenient for Department Heads, Salary Commission Members, and other Commission members to come. But I just want to let the public know that this will be their time also and that if they want to make comment, 10:00 a.m. next Wednesday is the time to come because I feel most people in this room have more notice than the public did. I am glad at least that we are not acting on the matter today. But you are going to have a second chance.

Council Chair Rapozo: Councilmember Yukimura, as your point about the public hearing, if next week after we have the discussion next, if the body feels that a public hearing is warranted, we can definitely entertain that. I mean, we have enough time to have a public hearing between now and April. Like it was said earlier, it is very difficult for the community to understand the mechanics and the logistics of what goes into the work that was done by the Salary Commission. The community will see this as we are having rough times, we are paying more taxes, and you folks want to give your employees raises. That is what they look at, and that is

why I am kind of hesitant of doing a public hearing right away. I would like to have the thorough discussion so that at least the public is aware of what leads up to this point so that there is some understanding of what actually happened and hopefully by then, we will make a decision whether or not a public hearing is warranted. No more discussion today.

Councilmember Kagawa: There is the Resolution later.

Council Chair Rapozo: What?

Councilmember Kagawa: There is the Resolution later, right, that she can speak on?

Council Chair Rapozo: No, this is it.

Councilmember Kagawa: Oh, this is the Resolution?

Council Chair Rapozo: Yes.

Councilmember Kagawa: I thought it was the Communication.

Council Chair Rapozo: It is the Communication with the Resolution attached. They do this one different to throw us a little off.

Councilmember Kagawa: Okay.

Council Chair Rapozo: Next week.

Councilmember Hooser: Today?

Council Chair Rapozo: We had the public testimony. Is there members of the public that want to testify more? Okay. I will entertain that.

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: Please.

FELICIA COWDEN: Thank you. Felicia Cowden. All the people who were speaking seemed so primary to the discussion that I did not realize it was open to everybody. I want to appreciate how robust this discussion is. I would say this has been very quality. I am in agreement that evaluation and requirements are key and that the parity issue is very important. What caused me to come forward was the attorney's discussion on their pay and also the Council's because what I hope happens with this, is that it is deferred as long as it can be. I know there is the sixty (60) day window, but that you are able to look at a lot of different elements that will go before the budget. When Mauna Kea was speaking and talking about, and I

think it was really you, Council Chair Rapozo, who said we have put a lot less outside contracted attorneys to cover these issues. I think like in planning, we bring in so many subcontractors it is just phenomenal how much money goes into outside planning efforts and most of which sit on the shelf somewhere. What Mauna Kea had said that really resonated with me is how important it is for people with real strong roots in the community to be affecting the legal system. It will change when that happens. I think that what we see with the planning subcontractors as people come from San Francisco or Honolulu, and it is cut and paste. We spend probably one million dollars (\$1,000,000) a year I feel like I watch get approved here. We could be putting more into our Planning Department. They could save that money that way.

I want to speak to the Council. This is not because I am thinking about my pay if I were to run again, and I have not decided that. The jobs that you folks do are full-time jobs, these are not part-time jobs. Even campaigning for an at-large seat, that takes a lot of attention. Where you learn so much, is attending all of these meetings all over the island. When we pay people who do this job who are young enough that they still have kids growing or whatever reason regardless of age, to ask for this kind of commitment, I am not sure what it pays, something like fifty-five thousand dollars (\$55,000) a year, people cannot support themselves on that. I think that when Councilmember Yukimura was speaking about our Department Heads needing to have a solid foundation and focus, the same thing applies for the Council people. You really are underappreciated. There should not be a conflict of interest. You should not be expected to come to work tired from a second job. That all the time I have.

Council Chair Rapozo: Hang on real quick. Anyone else wishing to testify? Okay. Matt. You can come back after, Felicia, and finish up your second three (3) minutes.

Ms. Cowden: Okay.

Council Chair Rapozo: Thank you.

MATTHEW BERNABE: Matt Bernabe, for the record. I also would like to say what an awesome discussion. I missed the first half of it. I had to go drop something off to my daughter, but I came in right around the County Attorney's discussion. It really is crystallized because here we are talking about this issue and it dawns on me that what you folks are all talking about is the reality that as a lawyer, which I am pushing my daughter to be and want her to come back and be a leader on Kaua'i. However, if she goes to Harvard University or Yale University and acquires massive debt, will she be able to come and work for the County while we have, and no offense to any of the Police Officers, we have Police Officers making more than the attorneys who do not acquire or incur personal debt while going through the cadet academy, and they are able to rise up through the ranks, through many complicated issues like collective bargaining and what not, Homeland Security requirements, what not. The question now lies, is this fair because we will not get my daughter

back. I personally will have to tell to her go and work somewhere in the private industry most likely, or another State or County, or the Federal government hopefully. But that is the type of quality leader we want to come back to Kaua'i. It just really made me start to think about it a little deeper because I have this potential professional that is going to go out, get these accreditations, the knowledge, the skillset, but does she want to come home? She might tell me, "Dad, I have learned the real world. You are out of your mind." You folks are out of your mind. That is kind of scary for me because I am grooming her to be the next generation. I am looking forward to further discussion. I have the information and follow-up and watch the beginning half of this discussion. Yes, awesome job.

Council Chair Rapozo:                      Anyone else wishing to testify? Glenn. First time.

JOE ROSA:                                      Good morning members of the Council. For the record, Joe Rosa. I am speaking as a former Civil Service worker. I started working for the government in 1950 and prior to that, there was a listing for the position that I was seeking to work with the territory of Hawai'i then. There were minimum qualifications you had to get to get in and take the exam. Fortunately thanks to some plantation engineers, I started doing engineering work with the plantation surveyors that did private work themselves for a measly five dollars (\$5) a day, which was big money for me. Today five dollars (\$5), nobody would even think about it. Well, the thing is when I applied for the job, I had the qualifications minimum to qualify to take the Civil Service exam. Where are those qualifications? When you go to the bulletin board it is posted minimum qualifications, education, experience, and whatever. You had to qualify under that position in that category qualifications. It was strictly qualifications. Then thereafter when it came time for our incremental raises in July, we had to write our job performance as to what our duties were, what do you actually do, and those are the things that we had to be able to do because that is part of the qualifications that you had to qualify to get into the position. It is not just who you know kind of thing that you are going get in and get big fat paychecks. When I left in the Department in 1986, it was twelve dollars and eighty cents (\$12.80) an hour plus benefits, which I say the benefits is something you cannot beat. So do not only look at the pay. Today there are better benefits that I had. In fact, I am going to be truthful and say my post-retirement benefits I paid pays me more than social security, which I did not get this year. But I have my State retirement come July. Another thing, Administration they give raises eleven percent (11%). The top we ever did have was five percent (5%) based on two (2) years, two percent (2%), three percent (3%). We could live on it. Now do not tell me they cannot live on the salaries that they are making. Private industry is out there.

Council Chair Rapozo:                      Joe.

Mr. Rosa:                                      If they make money, the Chief Executive Officers (CEOs) all get raises.

Council Chair Rapozo: I have to stop you there. You can come back.

Mr. Rosa: Yes, okay. Alright.

Council Chair Rapozo: Thank you.

Mr. Rosa: I thank you.

Council Chair Rapozo: Mr. Mickens. Did Mr. Mickens testify? No. Okay.

Mr. Mickens: Thank you Council Chair Rapozo. For the record, Glenn Mickens. I really compliment Councilmember Yukimura for bringing part of this thing up about the people that we hire. They have to be like Joe was just expanding on, we have to know that they are qualified for the job. Any job you go out to get, are you not qualified for that job? But I guess we have just kind of overlooked that thing. We get these political hires. We hired some really good people as Councilmember Yukimura pointed out. People like Larry Dill. I think he was a great County Engineer. I do not know whether he was making enough money or whatever, why he quit the job and went to the other job for more money or what it was. That certainly has to be looked at. We have to stop this. Council Chair Rapozo pointed out asking about Human Resources, I guess. Seventeen (17) people in that office. Do they need seventeen (17) people or the Mayor has what is it? Eight (8) people or something under him for eight hundred thousand dollars (\$800,000) or something? These things have to be consolidated and I am sure they have to be looked at. The other part was what Councilmember Kagawa brought up. Whatever raise we are going to give, we are going to have to show that we have got the money to give these raises. First it was five hundred thousand dollars (\$500,000) and now Council Chair Rapozo found out and corrected it to eight hundred thousand dollars (\$800,000) something. Whatever it is, the money is going to have to be there and the people are screaming now, "Do not raise my taxes." We do not need it anymore. Councilmember Hooser keeps bringing it up. We do not need any more excise tax, weight tax, or gas tax. The money that is going for those particular things for our roads for these taxes, we are taking in six million dollars (\$6,000,000) to ten million dollars (\$10,000,000) a year for those two (2) taxes. We are spending one million five hundred thousand dollars (\$1,500,000) to two million dollars (\$2,000,000) on our roads. You are getting this huge inequity where the money we are taking in. Where it is going? It is not going to. So when we give a tax, see it as putting it in a lockbox and it has to go for that specific reason. Thank you very much.

Council Chair Rapozo: Thank you. Anyone else wishing to testify for the first time? If not, second time? Felicia.

Ms. Cowden: I will be brief because I had almost finished. Felicia Cowden, for the record. I was saying that I thank you all for your humility and not wanting to be endorsing your own pay raise. I think it is a mistake because

of the importance of the job that you do and the need to have you be available to go around to the different communities. I go to all of these different meetings and you get less than one-tenth (1/10) of one percent (1%), if that, actually come to a County Council Meeting. Where you see people is if you are able to go out and really engage people right in their areas. To do that islandwide and have another job to be able to support your home and family, I do not think that is a fair expectation.

I do want to just make a small comment on the Police Department and the Fire Department. I do not think that it is an area to scrimp in your leadership. I just have to throw out a compliment. We had a fire this my tight neighborhood, R-6, and the Fire Department was amazing and excellent in the middle of the night. It did not even hardly wake the neighborhood. We could have had that whole neighborhood on fire. That is a well-executed place. Hanalei, they got the fire out first. But even Līhu'e was up there to be foaming on the roofs if that was needed. When we look at what is the potential cost to the whole community, having a good Fire Department is important. I want to also say that I continue to see improvements in our policing and I am seeing that coupled with our prosecuting area that we are getting convictions on serious crimes and less issues on the more minor crimes. I do want to just compliment where that is at. Public Works, the island needs a lot of help. That should be a twenty-four/seven (24/7) job because of the crisis are happening twenty-four/seven (24/7). But all of you are pointing out that we do not have the money. So I am saying as long as can you push this out before making a decision because the piecemeal way in which things come before the Council, and we make one decision after the next can often create these bumps up of costs that are not being able to be decided at one point. Thank you for doing a very difficult job. I appreciate it. I appreciate all the quality questions that have been asked.

Council Chair Rapozo: Thank you. Go ahead.

Councilmember Yukimura: Felicia, can you restate the issue about Council salaries. You said that your raises, if we act on this, we are not acting on our raises?

Ms. Cowden: Well, I thought I heard different people say...I will restate what I said. Having heard at least two (2) possibly three (3) people saying that they would not vote for their own raise, I think that is coming out of a sense of self...I do not even want to say why it is.

Councilmember Yukimura: Maybe you do not understand.

Council Chair Rapozo: Councilmember Yukimura, I think she restated what she said.

Ms. Cowden: Yes. I am just saying it is worthy of a full-time job and a pay raise that...

Council Chair Rapozo: You said you appreciate the humility.

Ms. Cowden: I appreciate the humility that is there. What I heard, I am saying this job is too important to be paid on a part-time basis because too many people who take the job have to have a second job, and that does not serve anybody well.

Council Chair Rapozo: Got it. Okay.

Ms. Cowden: But I respect all of you who have two (2) jobs.

Council Chair Rapozo: Thank you. Anyone else wishing to speak for a second time? Mr. Mickens.

Mr. Mickens: Thank you again, Council Chair Rapozo. For the record Glenn Mickens. I just want to pick up on that. I think this really has to be investigated whether it is a part-time or full-time job. What you folks do, it is not a part-time job like Council Chair Rapozo was pointing out. I am sure when you get that agenda, there are so many items on thing. For you to spend hours, you are going to have to...you do not want to get up here and look like a bunch of donkeys. So you are going to want to get up here and have researched what you are doing. But to spend the time you are taking to do that, it is a full-time job. But I guess some of these other things you ask the Commission whether they had part-time jobs, whether some of the Department Heads had part-time jobs. They did not even know whether or not they do or not. I do not know whether they do or not. But look at the Department, like again, you folks. You are putting full-time work or you should be. You should not have to work two (2) or three (3) jobs to keep your head above water. It should be a full-time job. In that instance, I think you should be paid commensurable. But if we can cut out the waste in other places, you are not going to have to raise the taxes to be able to pay for these. But I think it is important that we find out that the people that are doing the job or what you are supposed to be doing twenty-four (24) hours a day, you are going to have to eat, and you are going to have to sleep part of that time. You look at that agenda every week. I have been coming here for twenty (20) years and I just get to look at a couple little things on the thing and try to do a tiny bit of research. But I have to realize that you folks have to go over each one of these things. Like with this Salary Commission thing this morning, it is taken what, three (3) hours or something to go over this. I would fully investigate not just the Council, but any Departments that are part-time or full-time or whatever. It is like you are talking about Mauna Kea. Those people are working their rear off and saving us tremendous amounts of money. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you, Glenn. Anyone else? Mr. Rosa.

Mr. Rosa: For the record, Joe Rosa. As I was saying before I left, in the private industry, it all depends on the bonus that they get is what they made as far as businesswise, a profit. In the days past, if a company made

money, the workers could look for a bonus come Christmas. The plantation workers used to get twenty-five dollars (\$25) or twenty dollars (\$20) come Christmas time. That was a big thing in their paycheck. I, myself, as a Civil Service worker, I had a part-time job to help odds and ends to be met and bills to be paid. I understand where you people are coming from. You want the good things in life, you have to do something extra. If you do not do it, nobody will give it to you. Those are the kinds of things like I just said. Those are fringe benefits besides what you get while you were working. I know the collective bargaining law came about basically because if Kaua'i County could afford paying the salaries for the rank and file people, then they would pass it. I think Councilmember Yukimura can confirm that. Basically, that is how it was because they said Kaua'i is the lowest County as far as population and as far as to generate taxes. I was with Hawai'i Government Employees Association (HGEA) and I served on negotiations here on Kaua'i that was presented to the contract officials. I know where I am coming from and I know that the raises that the Administration have, the Salary Commission is being really generous. Like I just said, they get eleven percent (11%), whereas rank and file five percent (5%) in two (2) years. So they can say the highest is three percent (3%). Those are the kind of things. Is there fairness? Again, I would like to see this Council get the Civil Service Commission to come up with job duties and performance for each qualified position and also the workers themselves to list what their duties are on their positions. Like I said, when we had our increments, we what we are doing and Civil Service will also look it and check that. That is how raises were given to people. So when you had an incremental raise, it had to be deserving, you had to be plus seventy percent (70%). If you had anything below seventy percent (70%), if your supervisor would rate you on your job duties, also...

SCOTT K. SATO, Deputy County Clerk: Three (3) minutes.

Mr. Rosa: ...you do not get the seventy percent (70%).

Council Chair Rapozo: Sorry, Mr. Rosa.

Mr. Rosa: No pay raise. I thank you.

Council Chair Rapozo: Thank you.

Mr. Rosa: Tighten your belts.

Council Chair Rapozo: Second time, anyone for the second time?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Any further discussion after hearing that discussion? Councilmember Kagawa.



Councilmember Kagawa: Yes. I feel compelled to speak on the issue of Council and Mayor pay raises because I think of all of the pay raises listed, the voters only vote for the Council and the Mayor. So every two (2) years for the Council, the voters determine whether we will be back, whether we are doing a good job, or whether we are doing a bad job. It is between discussing the Council raises and the other pay raises that are listed. I just want to note that it may seem easy, but you can try and run it and see how easy it is. Thank you, Chair.

Council Chair Rapozo: Thank you. Councilmember Chock.

Councilmember Chock: Yes, I will just respond to that as well because I think I heard the comment that they appreciate the humility. But for me, it is not really that because I am worth every penny, I think. But I think it is about living within your means. I think when you have a limited budget, then you make hard decisions and that is what we have to do. As leaders, I think that we have to be the ones to set the example for that. I will go first. If I am asking other people to sacrifice, then I will go first. That is what it is about. Thank you.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: It is important to point out the distinction too. If the Salary Resolution is passed, it will take effect immediately, but not for the Council. Essentially, this Council is not voting for its own pay raises. We do not know who will be in the next Council and that is when the pay raises will be effective. We really are and should be voting for the position rather than any assumptions about who is going to be in those positions. So, I just wanted that clarification made.

Council Chair Rapozo: Anyone else? Okay. In response to Mr. Rosa's comments about the eleven percent (11%) versus the other bargaining units, the Salary Commission's presentation talks about the last seven (7) years. United Public Workers (UPW) received a fourteen percent (14%); HGEA Unit 1 had a twelve percent (12%) plus step; HGEA Unit 3 and 14 had a twelve percent (12%) plus step; HGEA Unit 4 and 14 had a twelve percent (12%) plus step; HGEA Unit 13, white collar professionals, had a sixteen percent (16%); State of Hawai'i Organization of Police Officers (SHOPO) had a twenty-nine point three percent (29.3%); and the firefighters had a twenty percent (20%). When you look at the raises that are being proposed by the Salary Commission, again, one point six percent (1.6%) per year, which is very conservative, very minimal. I just wanted to make sure that the public understands that. Yes?

Councilmember Yukimura: Thank you very much for raising that, and that was over a three (3)...

Council Chair Rapozo: Seven (7) years.

Councilmember Yukimura: Oh, it is over seven (7) years?

Council Chair Rapozo: Yes, according to the presentation. I have to assume it is accurate.

Councilmember Yukimura: But those were compounded, right?

Council Chair Rapozo: I am not sure if they were compounded or not.

Councilmember Yukimura: Yes, they are. They are always compounded. Five percent (5%) and then five percent (5%) increase on the one hundred five percent (105%).

Council Chair Rapozo: I do not know. Like I said, I am just reading the chart. I think what they did was they took their base pay back seven (7) years ago to what it is today, and it is a fourteen percent (14%) increase.

Councilmember Yukimura: Oh.

Council Chair Rapozo: Because I am using the same relationship as one point six percent (1.6%) per year. We are not compounding. I am assuming this is just a flat comparison. Anyway. Thank you, Councilmember Yukimura. Now I forgot where I was.

Councilmember Yukimura: Sorry.

Council Chair Rapozo: No, no problem. Oh, I know where I was. We talk about, and this is for all of you, everybody in this room that is going to lobby hard for this Resolution. This is for all of the members of the public that supports the Councilmember's request to show us the money before we approve raises because there is money out there. I implore each and every one of you to contact your State Representatives and your Senator to free up the Transient Accommodations Tax (TAT) because there is a cap and they are going to move forward with a cap. They are going to limit the funds that this County has. I bring it up because all of these positions we talk about performance, we talk about parks, and we talk about Public Works. They are holding back funds that could generate or could fund a lot of improvement projects this island. If they release the TAT to where we should be getting, then the moneys for this raise will be there without impacting the public. The reason I bring it up is because the legislature will not listen to us. They do not listen to Hawai'i State Association of Counties (HSAC). They do not listen to anybody. But you vote for them, they will listen to you. Let them know that as these TAT bills go through, please represent the people of Kaua'i and support the release of the fair share of the Transient Accommodation Tax. This is directly related to this because the big part of this discussion is how we are going to fund it. We only can raise property tax. The County can only raise tourists, vehicle weight tax, fuel tax, and we do not want to do that. The TAT is our money. It is generated by our tourists, our visitors, and we need to get a fairer share of that. I am asking you folks, begging you folks, rather than just keep E-mailing the County Council, carbon copy (cc) the

State Representatives and our Senator and let them know how important it is for them to a fair look at our TAT allocation because if we get our fair share, then I will tell you Councilmember Kagawa's concerns about our fiscal position, which are dead-on. It is spot on. It is accurate. A lot of that will be alleviated because we will have that revenue, and that revenue can be used in the parks, can be used in the Police and the Fire Departments, and so forth unlike a GET. With that, thank you for letting me vent. It is not just us. I mean, we have additional sources of revenue that should be coming from State as well. The motion is to refer to next week's Budget & Finance Committee.

The motion to refer C 2016-44 to the March 2, 2015 Budget & Finance Committee Meeting was then put, and carried by a vote of 5:0:2 (*Councilmembers Kaneshiro and Kualii were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

### COMMITTEE REPORTS:

#### HOUSING & TRANSPORTATION COMMITTEE:

A report (No. CR-HT 2016-01) submitted by the Housing & Transportation Committee, recommending that the following be Received for the Record:

"HT 2016-01 Communication (01/05/2016) from the Planning Director, requesting agenda time to provide a progress report for the ongoing North Shore, South Shore, and Eastside Transit Feasibility Study, which examines the viability of expanded local and regional transit service to better serve residents and visitors,"

Councilmember Yukimura moved for approval of the report, seconded by Councilmember Kagawa.

Council Chair Rapozo: Thank you. Discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Mr. Sato: Sorry. Chair Rapozo, we have one (1) registered speaker. That speaker is Glenn Mickens.

Council Chair Rapozo: Okay. Just before we go on, last week or the week before last, I was very flexible on allowing testimony on the Committee Reports. The Committee Report is not an opportunity to extend your testimony on the subject matter. The Committee Report is an opportunity to testify if in fact the Committee Report is accurate, if in fact something was left out, and not to have another day of discussion for that item. I mean no disrespect, but that is what the agenda item is. It is a Committee Report and it is a Committee Report that the Councilmembers will look at to make sure it is accurate, that something is not there that is not saying that

you said something that you did not say. I ask for the public's courtesy that this is not a second bite at the apple. This is an opportunity to look at the reports and make sure that it is accurate, okay, because it is not another day of discussion. It is done. The matter has been done. It has been finalized and this is to approve the report for its accuracy. With that, Mr. Mickens, if you have a question or comment about the actual minutes.

There being no objections, the rules were suspended to take public testimony.

Mr. Mickens: Okay. Thank you, Council Chair Rapozo. For the record, Glenn Mickens. Well, okay, basically you have a copy of my testimony. But from what you are saying I will not go into it. It is basically repetition from what I said before. But I had questions. I just wondered when do I get back answers to those. I know that according to Council rules, you cannot have dialogue with me. But I am wondering whether this Council or the Administration or somebody can at least answer the questions. We keep on getting consultants over here. Consultants to tell us about bikes, walking, shuttles, et cetera. All I am asking is we do not talk about vehicles. All my questions are why? Why are not we discussing what ninety-nine percent (99%) of the people here do by using their automobiles? Again, what I am saying here is basically all repetition. But I am coming up with facts that the Administration is giving us these pie charts. By their own numbers, they keep on showing what is going on, that people are going to use their vehicles. But we get consultants in here that we are what, paying thousands of dollars for, and they do not even discuss vehicle usage on Kaua'i. What we are going to do about it? Anyway, Council Chair Rapozo, I appreciate what you are saying. I understand that just to be repeating what we are saying before is an excellent point. I will not read my testimony. But maybe some of you people can come up with answers for me. I do not know how, in communications or if it is the Administration's problem. I will appreciated getting it. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. Staff, if we can send his testimony to the Administration with that specific question as why. All I will say is that the study that was provided at last week's meeting was a transit feasibility study. It was not a highway vehicle study, and just let Mr. Mickens know or keep him apprised of what the communications are. Unfortunately this body does not really have that authority to commence studies like that. But I have to say I agree. With that, any further discussion?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and carried by a vote of 5:0:2 (*Councilmembers Kaneshiro and Kualii were excused*).

Council Chair Rapozo: Next item, please.

BUDGET & FINANCE COMMITTEE:

A report (No. CR-BF 2016-05) submitted by the Budget & Finance Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2615 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, ARTICLE 11A, KAUAI COUNTY CODE 1987, AS AMENDED, BY ADDING A NEW SECTION 5A-11A.3, RELATING TO AN ASSESSMENT CAP,”

A report (No. CR-BF 2016-06) submitted by the Budget & Finance Committee, recommending that the following be Received for the Record:

“Bill No. 2606 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, ARTICLE 9, KAUAI COUNTY CODE 1987, AS AMENDED, BY ADDING A NEW SECTION 5A-9.3, RELATING TO A HOMESTEAD TAX CAP FOR HOME EXEMPTION AND LONG TERM AFFORDABLE RENTAL PROPERTIES,”

Councilmember Chock moved for approval of the reports, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any further discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the reports was then put, and carried by a vote of 5:0:2 (*Councilmembers Kaneshiro and Kualii were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

COMMITTEE OF THE WHOLE:

A report (No. CR-COW 2016-03) submitted by the Committee of the Whole, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2614 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 3, KAUAI COUNTY CODE 1987, AS AMENDED, BY ADDING A NEW ARTICLE 6, RELATING TO THE REGISTRATION OF LOBBYISTS,”

Councilmember Kagawa moved for approval of the report, seconded by Councilmember Chock.

Council Chair Rapozo: Discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report, seconded by Councilmember Chock, and carried by a vote of 5:0:2 (*Councilmembers Kaneshiro and Kualii were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

### RESOLUTIONS:

Resolution No. 2016-22 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF ETHICS (*Michael C. Curtis*): Councilmember Yukimura moved for adoption of Resolution No. 2016-22, seconded by Councilmember Kagawa.

Council Chair Rapozo: Discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Seeing none, roll call.

The motion for adoption of Resolution No 2016-22 was the put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Yukimura, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kaneshiro, Kualii	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: Next item, please.

Resolution No. 2016-23 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE CHARTER REVIEW COMMISSION (*Michael G. Perel*): Councilmember Yukimura moved for adoption of Resolution No. 2016-23, seconded by Councilmember Chock.

Council Chair Rapozo: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Seeing none, roll call.

The motion for adoption of Resolution No 2016-23 was the put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Yukimura, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kaneshiro, Kualii	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: Thank you. Next item, please.

Resolution No. 2016-24 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE CIVIL SERVICE COMMISSION (*Fely L. Faulkner*): Councilmember Yukimura moved for adoption of Resolution No. 2016-24, seconded by Councilmember Chock.

Council Chair Rapozo: Discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Seeing none, roll call.

The motion for adoption of Resolution No 2016-24 was the put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Yukimura, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kaneshiro, Kualii	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: Thank you. Next item.

Resolution No. 2016-25 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE COST CONTROL COMMISSION (*Tyler R. Rodighiero*): Councilmember Yukimura moved for adoption of Resolution No. 2016-25, seconded by Councilmember Chock.

Council Chair Rapozo: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Seeing none, roll call.

The motion for adoption of Resolution No 2016-25 was the put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Yukimura, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kaneshiro, Kualii	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Resolution No. 2016-26 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE PLANNING COMMISSION (*Heather K. Ahuna – Environmentalist*): Councilmember Chock moved for adoption of Resolution No. 2016-26, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Seeing none, roll call.

The motion for adoption of Resolution No 2016-26 was the put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Yukimura, Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kaneshiro, Kualii	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: Next item.

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2618) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2015-796, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL



YEAR JULY 1, 2015 THROUGH JUNE 30, 2016, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Deputy County Attorney, Kaua'i Police Department Legal Support – \$30,933*)

Council Chair Rapozo: Can I get a motion?

Councilmember Kagawa moved for passage of Proposed Draft Bill (No. 2618) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 23, 2016, and referred to the Budget & Finance Committee, seconded by Councilmember Chock.

Council Chair Rapozo: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

Mr. Bernabe: Matt Bernabe, for the record. Is it so low because it is a partial of what they would do? It is not a whole year. Is that why it was so low? Okay, that was my only question.

Council Chair Rapozo: Thank you. This is just for the remainder of the fiscal year. Anyone else wishing to testify?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Further discussion? Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. If I recall, this was one where I had hoped that the Deputy would be under the supervision of the Chief of Police full-time, and it did not work out that way. I think the votes were to put it under the County Attorney, which I fully trust. I guess I had hoped that the purpose would have been fulfilled better under the direction of the leader of the police and under the Chief and his Deputies. However, if you look statewide and these problems that have been occurring especially on Honolulu and Big Island and Maui has a couple. I just want to thank and hope that it continues that the Kaua'i Police Department stays out of that too much. I know we had one recently where we wish had not happened. However, nothing is fool-proof. But having a Deputy County Attorney hopefully, will help our Chief of Police and his management to get our police officers some prevention and, I guess, assistance in legal work to try to keep us out of the big issues that really it hurts the Department. It hurts the reputation. I guess for me, really, for the officers, the morale is not good. All kinds of things. I am glad that we finally have a legal County Attorney that will be able to give, I hope, the Police Department one hundred percent (100%) effort when they need it. Thank you, Chair.

Council Chair Rapozo: Thank you. Any other comments? If not, this one is a tough one for me and we are putting it on. The Department is in so much need of this position, this type of position. I am not going to go re-open the wound. But I will say that I still believe today that the Chief should be in control of this position one hundred percent (100%). The Chief should be able to hire this person without any influence of the Office of the County Attorney or the Mayor. This Chief should be able to work with this position with any influence or interference or any kind of distraction from any other Department. This position, which is how it was originally submitted by myself, should be, and this was not the request of the Chief. I want to make that point. I know the Chief is here and the Deputy. But initially on, he had requested an Analyst. But the last go around, I had asked the Chief if he still needed it. He did. But it was my request because I believe as we move forward through accreditation as we are dealing with the situations that are occurring throughout the Country involving police departments, that the Chief should have total control of this position. That was not going to go anywhere. The Mayor opposed it and what are you going to do? We can fund it. The Mayor does not approve it. We get nothing. This is somewhat of a compromise. But I still am struggling with it. I do not know how I am going to vote at the end of the day. It depends on how the discussion goes. It depends on assurances I get from the Administration and from the Office of the County Attorney that there will be no interference, there will be no distractions, there will be no influence. But there is no way you can put that in the Bill. So it is either half of something or all of nothing. Right now, I think the Chief, and we will wait for the Committee to hear his comments, but I think the Chief is looking at half of something is better than all of nothing. We need this position. We need to meet accreditation. I get irritated when people criticize the Department and yet we do not give them the tools they need to be accredited. I feel for them. I am hoping this time around we get to some resolution and the Chief gets the tools he needs to meet that accreditation goal. I think that is critical. It is critical for the Department, it is critical for the people, and it is absolutely critical for the County as it relates to liability and exposure to lawsuits. We will go through the process and we will see where the discussions fall. I will reserve my vote for the appropriate time. With that, roll call.

The motion for passage of Proposed Draft Bill (No. 2618) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for March 23, 2016, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

FOR PASSAGE:	Chock, Hooser, Kagawa, Yukimura,	
	Rapozo	TOTAL – 5,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kaneshiro, Kualii	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: Next item, please.

BILLS FOR SECOND READING:

Bill No. 2606 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, ARTICLE 9, KAUAI COUNTY CODE 1987, AS AMENDED, BY ADDING A NEW SECTION 5A-9.3, RELATING TO A HOMESTEAD TAX CAP FOR HOME EXEMPTION AND LONG TERM AFFORDABLE RENTAL PROPERTIES: Councilmember Kagawa moved to receive Bill No. 2606 for the record, seconded by Councilmember Yukimura.

Council Chair Rapozo: Motion to receive and seconded. Thank you. Further discussion? Councilmember Yukimura.

Councilmember Yukimura: Yes, as I said in Committee, I did not support and do not support the Homestead tax cap, but I do support its goals. I appreciate the introducer's, Councilmember Hooser's dedication to trying to find a way to modulate and make real property taxes more predictable. Through the synergy of working with the Administration and around this table, we have come up with another solution, which I think is going to work better and that is further on in the agenda. I just want to say that this Bill, while we will be receiving it, I think did move us in a good direction, and I am thankful and appreciate all of the work that has gone into it.

Council Chair Rapozo: Any other discussion? If not, Mr. Mickens.

There being no objections, the rules were suspended to take public testimony.

Mr. Mickens: Thank you, again Council Chair Rapozo. For the record Glenn Mickens. I want to thank Councilmember Hooser for this tax cap bill. The people need it. I really appreciate his putting it out there. But we desperately need a permanent tax overhaul and I hope that Councilmember Hooser and eventually the Councilmembers will ramrod a Blue Ribbon Committee to once and for all make our tax system as equitable as possible for the majority of the people. No system will ever be perfect. Proposition 13 in California has worked well for protecting the people from getting taxes. It has worked for fifty (50) years. It was a very good example of something that the people wanted. It personally kept my mom and dad in their home. They did not get taxed out of their home in their retirement years. Again, we need some kind of cap on this thing. I appreciate Councilmember Hooser doing this. Thank you.

Council Chair Rapozo: Mr. Bernabe.

Mr. Bernabe: Matt Bernabe. If I remember, you folks had kind of a floating scale amendment at the end, was that it for the cap? Did you folks come up with a straight flat one or is there a tiered level? I could remember what you came up with.

Council Chair Rapozo: You might be referring to the assessment cap coming up.

Mr. Bernabe: Oh, maybe I might be wrong.

Council Chair Rapozo: That is coming up after.

Mr. Bernabe: But while on the regular Homestead cap, I am curious, does this cap fall for Ni'ihau as well? I mean, I am just curious. Does he get cap at two hundred dollars (\$200) for that whole island? I just wanted to throw that out there. Thank you.

Council Chair Rapozo: Thank you. Felicia.

Ms. Cowden: Felicia Cowden, for the record. Mine is really formed more as a question and it is going to relate to two (2) of these bills. I do not have to testify on the second one. When I look at the difference between a Homestead tax cap and an assessment cap, I might not have enough background to really grasp the significance between the two (2) or I have not done my homework. But my concern is an assessment cap probably affects our lendability where a Homestead cap would not. If that is accurate...I mean, it is certainly something to be looking at because then I would be more supportive of a Homestead tax cap. I think we have to be careful. But in alignment with Mr. Mickens, we really do need to look at the whole comprehensive picture because what happens when we take care of our citizens, and I am one of them. Thank you so much for the low tax rate. We become almost addicted to our investor residential groups. So when people in my community, in one direction, properties are selling for twenty-nine million dollars (\$29,000,000), being built it up for forty-three million dollars (\$43,000,000), and in the other direction, three (3) generations are living in the same house that is in a lot of disrepair. We have this big difference, and I get there is value in maybe causing the people in the forty-three million dollars (\$43,000,000) place to pay for what runs this County. But what happens is that the North Shore, Po'ipū, and different areas become the needed collateral damage. We need those areas to be paying that kind of money and it is not particularly fair to those people. They do not actually use very much in services. I am with Glenn, that we need to really not to keep kicking the can down the road and look at everything. I get how difficult that is to do. I am worried that an assessment cap is going to create us problems in how we get refunded. Again, pulling on what Councilmember Kagawa said and you have all said at some point, we do need...I am sorry to give first names, Council Chair Rapozo. We do need to get our Transient Accommodations Tax back because our municipal debt is something very important to be looking at. When I look at the boom and bust cycles, I see our municipal debt as being a thunder clap behind what had been the home mortgage crisis. Across this Country municipal debt, we are being fished for. They keep throwing us these little opportunities for a loan after requirement for an investment. We have a problem. I am finished.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Felicia, I wonder if you could repeat the part of your testimony where you talked about needing those tax funds from a certain area. You were talking about Residential but you are talking about Hanalei.

Ms. Cowden: I am saying that when we put so much of the burden on our non-resident investors, we charge people one hundred thousand dollars (\$100,000), forty thousand dollars (\$40,000). I see these really high prices. When we do that, the County becomes dependent on sticking it to the people who do not actually vote. It is an addiction and we will keep allowing that. We are asking the County difficult cross pieces.

Council Chair Rapozo: Thank you. Anyone else wishing to testify?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: The motion is to receive. Roll call.

The motion receive Bill No. 2606 for the record was then put, and carried by the following vote:

FOR RECEIPT:	Chock, Hooser, Kagawa, Yukimura,	
	Rapozo	TOTAL – 5,
AGAINST RECEIPT:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kaneshiro, Kualii	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: Next item, please.

Bill No. 2614, Draft 1 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 3, KAUAI COUNTY CODE 1987, AS AMENDED, BY ADDING A NEW ARTICLE 6, RELATING TO THE REGISTRATION OF LOBBYISTS: Councilmember Hooser moved for adoption of Bill No. 2614, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you.

Councilmember Hooser moved to amend Bill No. 2614, Draft 1, as circulated, as shown in Floor Amendment 1 which is attached hereto and incorporated herein at Attachment 1.

Council Chair Rapozo: Okay. Can I get a second?

Councilmember Chock seconded the motion to amend as circulated.

Council Chair Rapozo: Thank you.

Councilmember Hooser: This is more or less of a housekeeping amendment. The Board of Ethics right now, they require forty-five (45) days to do an advisory opinion and this measure has thirty (30) days. So this brings it into alignment with the rest of the matters before the Board of Ethics so there is no confusion or any problem with that.

Council Chair Rapozo: Okay. Any further discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to amend Bill No. 2614, Draft 1, as circulated, as shown in Floor Amendment 1 which is attached hereto and incorporated herein at Attachment 1 was then put, and carried by a vote of 5:0:2 (*Councilmembers Kaneshiro and Kualii were excused*).

Council Chair Rapozo: Motion carried. Oh, for that amendment? We are only on the amendment. We are going to get back to the...do not get worried. I am going to ask for a two (2) minute recess because I have to confer with the Clerk to two (2) minutes. I will just take a real quick two (2) minute recess. I am going to be proposing an amendment as well, but I just noticed something on the amendment. Two (2) minutes, stay in your seats.

There being no objections, the meeting recessed at 11:53 a.m.

The meeting reconvened at 12:03 p.m., and proceeded as follows:

(*Councilmember Kagawa was noted as not present.*)

Council Chair Rapozo: Thank you for allowing me the time to clarify or correct the amendment. Anyway, I do have an amendment.

Council Chair Rapozo moved to amend Bill No. 2614, Draft 1, as amended as circulated, as shown in Floor Amendment 2, which is attached hereto and incorporated herein as Attachment 2, seconded by Councilmember Chock.

Council Chair Rapozo: No, we do not.

Councilmember Yukimura: Did we pass it?

Council Chair Rapozo: Yes, we did.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: The first one is an addition to the expenditure definition, which basically attorney-client privileges already exist, and this just clarifies the expenditure definition to include “attorney’s fees paid where such fee information is protected by the attorney-client privilege pursuant to Hawai‘i Rules of Professional Conduct Rule 1.6.” This just puts in an existing rule that is in there for clarification. The second is as far as the definition of a lobbyist. We received numerous testimonies from the public, or I did, showing concern that if someone works for an establishment, works for Walmart, and they come up and testify in support or against a specific agenda item, they are not a paid lobbyist. But they are basically expressing their opinion that they would be considered a lobbyist. In my amendment lobbyist means “any individual who for pay or other consideration engages in lobbying on behalf of another person in excess of five (5) hours.” In other words, you can come up and lobby all you want for yourself. But it clarifies that you have to be lobbying for someone else for you to be a lobbyist and not for yourself. That is the amendment that is open up for discussion. Councilmember Hooser.

Councilmember Hooser: I just had a question, I guess, clarification. The first one seems pretty straight forward in terms of attorney fees. The second one, while I understand the intent, I do not know how someone would get paid to testify on their own behalf. The existing language says “an individual who for pay or other consideration engages in lobbying in excess of five (5) hours.”

*(Councilmember Kagawa was noted as present.)*

Councilmember Hooser: I understand the other person. But I do not know how you could get engaged for pay and not be lobbying for somebody else. Could you give me an example of someone getting paid to lobby for themselves?

Council Chair Rapozo: Let us just use the Walmart example, the super Walmart. It may be the owner. It may be an owner of a project, a developer. I do not want to use specific examples. But let us say xyz hotel was going through some permitting concerns right now. The owner can show up on his own behalf and he could definitely spend more than seven hundred fifty dollars (\$750) to hit the threshold of being a lobbyist. What I am suggesting is that person coming here to testify, or meet with Councilmembers, or meet with the Planning Commissioners, or meet with the Mayor, would not be subject to lobbying bill because he is the owner or she is the owner. That is all I am suggesting. You could hit that threshold whether you an owner testifying for yourself or for someone else. This just clarifies that basically the requirement or the trigger would be you would have to be testifying for someone else.

Councilmember Hooser: To be clear, a person who gets paid to lobby can stand up here and say they are lobbying on their own behalf.

Council Chair Rapozo: No. Obviously if someone is here testifying for a project that is not their project, they are testifying for someone else. That is all there is.

Councilmember Hooser: Okay. This is just for the record, not consistent with the HRS, is that correct? Do any of the other Counties have this provision? I am not sure. I did not look at the other Counties like I said. For me, I am thinking what is best for Kaua'i.

Councilmember Hooser: Right.

Council Chair Rapozo: I did not really look at the others.

Councilmember Hooser: I know we have had a lot discussion on this and lot of discussion has been focused on being consistent with HRS.

Council Chair Rapozo: On the definition.

Councilmember Hooser: Throughout the Bill. Some places were consistent and some were not. I just want to make sure that there are no unintended consequences from this. I mean, on the surface, it looks fine.

Council Chair Rapozo: Yes. Well, help me. If you see any unintended or some potential problems with this, let me know.

Councilmember Hooser: Right. Okay.

Council Chair Rapozo: This to me, is a clarification amendment basically saying if your company and your company is being affected by some legislation that is being proposed, that if you come up and testify for your company, you not a lobbyist. You are the owner.

Councilmember Hooser: Right.

Council Chair Rapozo: That is all I am trying to say here. If it is ambiguous or you see any kind of possible problems, let me know.

Councilmember Hooser: No. That has been our intent all along.

Council Chair Rapozo: Yes.



Councilmember Hooser: I appreciate you trying to be clearer. It is just the first time I have seen it and I want to make sure there are no unintended consequences.

Council Chair Rapozo: Yes. There is absolutely no other motivation other than to try to clarify that. It is difficult to label an owner. I remember when the State was trying to pass a law regarding process servers and that they wanted to do a whole registration.

Councilmember Hooser: Okay.

Council Chair Rapozo: Anyway, my point is this. It showed up at the Legislature to testify for me, and I would have met the requirements as a lobbyist. But I was not a lobbyist. I was a business owner testifying for my business.

Councilmember Hooser: Right.

Council Chair Rapozo: That is kind of where this comes from.

Councilmember Hooser: I am sure this is fine. Thank you.

Council Chair Rapozo: Thank you. Any other discussion or questions? If not, any public testimony on the amendment? Mr. Mickens. This is on the amendment now.

There being no objections, the rules were suspended to take public testimony.

Mr. Mickens: Thanks, Council Chair Rapozo. For the record, Glenn Mickens. Council Chair Rapozo, you raise an excellent point about what the lobbyist is. You can remember when this Council, people used to testify, you used to ask those people not just their position, but whether they represented anybody. But what the rules state, that person may be a lobbyist. It used to be good for the public to know when somebody sits here whether he is the, like you said, might be the owner of the establishment and he is sitting here. But for the public's sakes, you kind of like to know well, that person makes a good point, but he is making that point because again, you are not saying the person is a lobbyist. But it is useful to know what the person is representing. He is not just a Tom Blow citizen coming in here. He is making these statements because of interest in whatever he is talking about. That word "lobbyist," I guess it can be very broad, can it not, when you are talking about a lobbyist? If you work for the place or anything else, you are a member of the public, can testify any way you want, and you are not being paid, as you are pointing out. But to come in here, you are still basically lobbying for that particular interest that you have. That is all. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. Anyone else wishing to testify on the amendment?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Further discussion? Councilmember Yukimura.

Councilmember Yukimura: Just to clarify, it does seem reasonable that the proposed wording on page 1 of your amendment is basically saying the attorney will not be forced by this law to violate his duty of professional responsibility?

Council Chair Rapozo: Correct.

Councilmember Yukimura: Okay. Alright. I think that is quite reasonable.

Council Chair Rapozo: Attorneys and clients have that protection and the fees are included in that protection, and that is all that is. Again, it is a rule that is already in place. I just wanted to clarify it in the definition so there is no question.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Thank you. Any other discussion or questions?

The motion to amend Bill No. 2614, Draft 1, as amended, as circulated, as shown in Floor Amendment 2, which is attached hereto and incorporated herein as Attachment 2 was then put, and carried by a vote of 5:0:2 (*Councilmembers Kaneshiro and Kualii were excused*).

Council Chair Rapozo: The amendment passes. We are back to the main motion. Any further amendments? I am going to get there. I just wanted to make sure that we have all of the amendments out of the way. Any more amendments? Public testimony?

There being no objections, the rules were suspended to take public testimony.

Council Chair Rapozo: Do we have a list? No? Okay. First come first serve.

NANCY KANNA: Aloha Chair Rapozo, Vice Chair Kagawa, and members of the Council. My am Nancy Kanna, Government Affairs Advocate here to testify on behalf of the Kaua'i Board of Realtors, we call it KBR, and its five hundred seventy-five (575) members and affiliates. While KBR acknowledges some of the amendments made by the Committee of the Whole at the February 17<sup>th</sup> meeting, KBR opposes Bill No. 2614, Draft 1 in its current form and recommends that Kaua'i model

the Bill more directly after the State ethics laws under Hawai'i Revised Statutes Chapter 97. Lobbying provides decision makers with valuable insights and data as well as granting stakeholders access to the development and implementation of public policies. A sound framework for transparency in lobbying that is reasonable and balanced can be useful. As such, KBR supports efforts to require those individuals who meet certain criteria to register as lobbyists and to register their lobbying expenditures as well as contributions received for the purpose of lobbying by filing reports. In review of Bill No. 2614, Draft 1 KBR believes the following Sections of the Bill present unreasonable burdens and should be amended. The first Section, Section 3-6.3 Registration of a lobbyist, requirements. I am referring to Section 3-6.3(b) requiring the registration to be certified under oath. Requiring the registration to be certified under oath is unrealistic, creating an additional barrier against anyone registering as a lobbyist. Certification under oath is not a requirement under the State lobbyist law and KBR does encourage alliance with the State ethics law.

Section 3-6.5 Contributions and expenditures; statement. Referring to Section (c) 3 and 4 subject areas and descriptions. While disclosing the subject area of the legislative and administrative actions supported or opposed by the lobbyists is fair, it is unreasonably burdensome that additionally all the titles, titles of bills, resolutions or actions, and the description of the permit procurement or contract management supported or opposed by the lobbyist be disclosed. One organization works on many bills over the course of a filing periods and tracking every period of anything worked on by a lobbyist is grossly unreasonable. This degree of detail is not a requirement under the State lobbyist law. In Section 3-6.5(c)5, receipt of expenditure of any money for the purpose of influencing the election or defeat. Councilmember Hooser, I am not sure if this was a typographical error. In looking at State lobbyist law, the statement in Bill No. 2614, Draft 1 Section 3-6.5(c)5 mirrors Chapter 97-3(D) except the following language has been deleted...

Council Chair Rapozo: Nancy. Is there anyone else wishing to testify on this? Okay, I am going to stop you there.

Ms. Kanna: Okay.

Council Chair Rapozo: And then you come back for your second time.

Ms. Kanna: Oh, man. I was just at the good part, too.

Council Chair Rapozo: I know.

Ms. Kanna: I will just restart that section.

Council Chair Rapozo: Yes, please.

Council Chair Rapozo: Jan.

JAN TENBRUGGENCATE: Thank you, Council Chair Rapozo. Jan TenBruggencate speaking for myself. My sense is that the document while it is been improved significantly from the original version, still has significant issues. I will echo what Ms. Kanna said about the requirement of a notary. I mean, if someone show up to lobby here, you could reasonably tell them if you have not gotten notarized lobbyist registration in place, you cannot speak. I do not think that is the intent of this Council. As it stands today, if you simply forgot to cancel your registration after you stopped being a lobbyist, then there would be a lot of people who are one-time lobbyists. You would be subject to one thousand dollars (\$1,000) fine. I am not sure if that is the intention of this Council. As I read the language of the current version, it applies broadly not just to people who appear before the Council. But if an architect represents you because you are building a bedroom on onto your house, he is now a lobbyist under the language of this. If you are an electrician building that same addition, has to come before the County, he is a lobbyist, and now because you have now hired two (2) lobbyists, you also have to register as a lobbyist. Since you are spending money paying them on your behalf, you now have to register financial statements based on what you are spending to hire them to do that work. Car dealers who register your cars for you when you buy a car, are lobbyists under the language of this legislation. Solar contractors, realtors, planners, and facilitators seeking County contracts. Virtually anyone who has a business who is doing business with County government under the language of this document, is a lobbyist. I am not sure that is what you intended. My suggestion would be that you perhaps toss this document into a workshop setting where it is much easier to go through piece by piece and find the various areas that do not work well, and pass, as I think we must do in our community. We need lobbyist registration. Let us get it done. Let us get it clear, simple, and transparent. Thank you.

Council Chair Rapozo: Thank you. Anyone else wishing to testify for the first time? Mr. Bernabe.

Mr. Bernabe: Matt Bernabe, for the record. I just wanted to say that I do like Chair Rapozo's idea of going with State definition. I would just like to say that I am a little confused because if, and no offense to the prior testifiers, but if a car dealer comes up against this body and is speaking on behalf of something that he might directly benefit, right, I do not see why that is a big deal. But if the car dealer is doing his job selling cars, but he is not advocating for something personal or Ford or Honda company is going to benefit from, then what is the big deal, right? is this not about if you come up before this body, right here where I am sitting now, or to your personal buying you lunch and you folks voting on a bill that affects. Let us use the car dealer. Let us use Ryan Mackey. If Ryan Mackey is buying you lunches and this and that. Then he comes to you folks and he wants you to vote a certain way, then I am down. He needs to register. Now the descriptive language is, I like what the Chair says. We will go with the State language. But at the end of the day, I do not care if you are a window washer or a yard person. I mean, I have got a lot to say about the company that does the cleaning with the yards for the County on these roads because those people need to register because they are the ones telling us to

plant these bad species in these cement planters that have to be pruned every two (2) to three (3) weeks. So yes, we really need some lobbyist legislation. That is what I am trying to say. If you folks want to debate what the language should be, fine. I understand it is your Bill, but I do prefer the descriptive terms used by the State. Thank you very much.

Council Chair Rapozo:

Thank you. Felicia.

Ms. Cowden: I am Felicia Cowden. I am going to speak broadly. I think that having some level of registration of lobbying has value. I think the need for this ordinance comes in much more strongly once we have stop being allowed to ask questions of the speakers in here. I think that is really problematic. It is important to be able to ask what somebody does for a living or where they work or things like that if they are speaking. I think that this is really not so necessary without that prohibition on full clarification. I do feel and I respect the intention of this Bill. I feel like the words are pretty broad or perhaps I am not understanding them deeply enough. But it seems like it is not just in this room. I think that it is a small community. Everybody knows each other. Maybe there is two degrees of separation. So when I was reading the original Bill, to me, a Chamber of Commerce of meeting might appear to be in violation of it or any of these types of thing where we are coming together separately with Councilmembers, which is in complete contrast to what I am hoping for when I say you folks should have a full-time job. We should be mingling the Councilmembers with the community as much as we possibly can. I think this would be a whole lot less necessary if you all could ask questions, you should be able to ask questions, and we need to be careful how broad the definition of what is exactly lobbying because anybody who has lived here for any real length of time could find a way to be considered a lobbyist if they are busy and involved. I mean, that is an exaggeration, in one area or another. A farmer could be a lobbyist for agriculture maybe, if I am understanding the reading of it correctly. I am saying be careful, but yes it is important, and I wish you folks were able to ask questions so it was less important. The lack of questions is really what demands need for this lobbying bill. Thank you.

Council Chair Rapozo:  
not, Nancy.

Thank you. Anyone else for the first time? If

Ms. Kanna:

Okay, I am picking up from Section 3-6.5(c)5.

Council Chair Rapozo:

Thank you.

Ms. Kanna: This was, I believe, a typographical error. In looking at the State lobbyist law, the statement in Bill No. 2614, Draft 1 Section 3-6.5(c)5 mirrors Chapter 97-3(D) except the following language has been deleted, "is excluded from the reporting requirement of this Section." The receipt or expenditure of any money for the purpose of influencing the election or defeat of any candidate for an elective office or for the passage or defeat of any proposed measure

at any Special or General Election falls under the purview of the State Campaign Spending Commission, and as such, Bill No. 2614, Draft 1 oversteps these boundaries. The Kaua'i Board of Realtors strongly suggests that Bill No. 2614, Draft 1 Section 3-65(c) be amended to mirror Chapter 97-3(c) through (d).

Restricted activities, which is Section 3-6.7. I am referring to Section (c). This section amended by Councilmember Kaneshiro is an absolute statement and presents an unrealistic burden on elected officials and officials of an administrative agency. While his amendment shifted the burden from lobbyists to the elected official, KBR believes the lobbyist bill should be fair to all parties, and that includes you folks. What truly constitutes any gift? A lei? Information in the form of periodicals or other media? What is the intent of the gift? The greater issue lies in how the public perceives the gift and is such, may be misconstrued. By adopting Hawai'i State law and Hawai'i Revised Statutes Chapter 97-3(c) 1 and 2, Contributions and Expenditures statement, expenditures over twenty-five dollars (\$25) a day for an aggregate of one hundred fifty dollars (\$150) or more during the reporting period must be reported.

Into Section 3-6.9(3), an administrative fine as defined by the proposed lobbyist registration ordinance, is excessive. The State lobbyist law Chapter 97-7 sets the administrative fine to five hundred dollars (\$500), which we believe is reasonable. KBR believes in transparency and disclosure of lobbyist activities that is fair, consistent, reasonable, and within practical means. *Mahalo* for the opportunity to testify.

*(Councilmember Kagawa was noted as not present.)*

Council Chair Rapozo: Thank you very much. Anyone else wishing to testify for a second time?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Discussion? Councilmember Yukimura.

Councilmember Yukimura: To start with the last point that Ms. Kanna made, I have a question for the introducer of the Bill regarding the fines. The way it reads is that shall not...okay. "Any person who engages in activities prohibited in this Article shall be subject to an administrative fine imposed by the Board of Ethics that shall not exceed one thousand dollars (\$1,000) for each violation." The basic concept here is "up to." It does not mean one thousand dollars (\$1,000) for every violation, right?

Councilmember Hooser: That is correct.

*(Councilmember Kagawa was noted as present.)*

Councilmember Hooser: I want to point out this says “willfully.” So it says “willfully fails to file or willfully files a false statement.” It is not accidental. It is willfully. The amount of the fine as proposed is actually less than the lobbyist law that was on the books on Kauaʻi if you adjust it by inflation, which was passed in 1975. But it is clearly willfully and it says “up to” not “exceed.”

Councilmember Yukimura: I mean, I do not remember my law school days. But “willfully” is a pretty high standard to prove. You have to really prove that the person knew they were violating the requirements and deliberately did not file or tried to avoid filing it.

Councilmember Hooser: Yes.

Councilmember Yukimura: The fines would be set by the Board of Ethics based on the circumstances of the violation. So depending on what was violated and how deliberate it was, they could send it anywhere from one dollar (\$1) to one thousand dollars (\$1,000). Is that both the intention and the impact...

Councilmember Hooser: Yes.

Councilmember Yukimura: ...as you understand it?

Councilmember Hooser: That is certainly the intention and that is my understanding of the impact, yes.

Councilmember Yukimura: Okay. Can we have the attorney?

Council Chair Rapozo: Sure.

There being no objections, the rules were suspended.

Councilmember Kagawa: Council Chair Rapozo, just process.

Council Chair Rapozo: Yes.

Councilmember Kagawa: We are at 12:30 p.m., which is normally the lunch break. But I am just wondering if the plan is to finish the whole day’s calendar prior to lunch and go a late lunch at 1:00 p.m. or are we looking at a lot more time on this, then I would suggest that we take the break now, and come back at 1:30 p.m. and wrap it up.

Council Chair Rapozo: We still have the assessment cap. I am not sure. Do you folks envision that taking a lot of time?

Councilmember Kagawa: Very quickly I believe.

Council Chair Rapozo: Are there any amendments to the assessment cap?

Councilmember Yukimura: No.

Council Chair Rapozo: No amendments?

Councilmember Kagawa: I just wanted to point out where we are at.

Council Chair Rapozo: If we can wrap this up by 1:00 p.m., then I am suggesting that we go straight through, and wrap it up by 1:00 p.m. I do not think we can wrap it up by 1:00 p.m. though. Just something is telling me that it is not going to happen. I hate to go to 1:00 p.m. and then take a break.

Councilmember Yukimura: I think we will make it by 1:00 p.m.

Councilmember Hooser: Yes. I pledge to keep my remarks limited.

Councilmember Yukimura: Yes.

Council Chair Rapozo: Okay. Well, I will tell you what. This is the deal. We will go to 1:00 p.m. and if we cannot finish by 1:00 p.m., we defer. Okay.

Councilmember Hooser: Let us not defer.

Council Chair Rapozo: We will be fine. We have twenty-six (26) minutes to wrap this up and the assessment cap. Mr. Trask.

Mr. Trask: *Aloha.* For the record, Mauna Kea Trask County Attorney.

Councilmember Yukimura: Mauna Kea, do you agree willfully is a high standard?

Mr. Trask: Can I just read from this? Yes. I mean, I think it is higher than negligent, higher than reckless. Depending on the context, it may not necessarily be intentional because intentional on have to hit intentional on the various elements of the issue. But if I could read this. This is just from Black's Law Dictionary. Again, this is just a dictionary. No case research. "There is no precise definition to for the willful because the meaning largely depends on the context in which it appears. However, it generally signifies a sense of the intentional as opposed to inadvertent, the deliberate as opposed to the unplanned, and the voluntary as opposed to the compelled."

Councilmember Yukimura: Okay, thank you. The way it is written, the fine shall not exceed one thousand dollars (\$1,000), it essentially means up to one



thousand dollars (\$1,000) and anywhere between one cent (\$0.01) and one thousand dollars (\$1,000)?

Mr. Trask: Correct.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Any other questions for the attorney on any of the matters? If not, thank you very much.

Mr. Trask: Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Any other discussion? Councilmember Yukimura.

Councilmember Yukimura: I am concerned about the point raised by Mr. TenBruggencate not so much for legislative action because to me, that is clearly within the ambit of lobbying. Administrative action where an engineer is bringing in plans for a client to get approval or passage, that kind of concerns me because it is not really a lobbying situation as I understand it. Yes, please go ahead.

Councilmember Hooser: I believe the testifier misread the Bill and does not understand the definitions. It is all in the definitions.

Councilmember Yukimura: Okay.

Councilmember Hooser: The Chair has even narrowed the definition even more. The definition of a lobbyist as we know is "someone who gets paid to represent somebody else to influence administrative action or legislative action." If you go to the definition of administrative action, it does not say "permit", it does not say "car license," and it does not say "architects" or "electricians." Administrative action says "proposal, drafting, consideration, amendment, enactment, or defeat by any administrative agency of any rule, ordinance, or regulation..." So that does not include those people. If you qualify for the lobbying and then you go to try to influence other administrative action, you have to report that on your financial expenditures. But the definitions are what it is all about. It is clear that it does not include electricians, car dealers, et cetera.

Councilmember Yukimura: "...other actions governed by Hawai'i Revised Statutes 91-3," is that the Administrative Procedures Act?

Councilmember Hooser: I believe so. Hawai'i Revised Statutes 91-3 is rule-making.

Councilmember Yukimura: That is rule-making. I am really grateful for this clarification. It means that basically, administrative action means any rule-making activity.

Councilmember Hooser: Or vetoes or drafting of introductions of bills, that kind of thing.

Councilmember Yukimura: Vetoes?

Councilmember Hooser: Enactment or defeat of any rule, ordinance, or regulation.

Councilmember Yukimura: Well, veto is actually a legislative process. It is the process of creating a law. So that is a legislative action.

Councilmember Hooser: If the Administration vetoes a legislative action and you are lobbying the Administration not to veto it or to veto it, that would be in the administrative action.

Councilmember Yukimura: Okay.

Councilmember Hooser: This comes from HRS.

Councilmember Yukimura: Okay. Chair, is it possible to ask Mr. TenBruggencate to come up as a resource person just because we are poised to take final action?

Council Chair Rapozo: In what capacity?

Councilmember Yukimura: As the person who raised the issue.

Council Chair Rapozo: That is not a resource person. A resource person is...

Councilmember Yukimura: Well, then just as a public testifier just so we can understand if we have covered his concerns or not.

Council Chair Rapozo: He brought up his concerns. Councilmember Hooser has brought up his clarification of the concern. You are an attorney. I think you can decipher what the definition is about. I think the definition is very clear. If you are paid to influence the vote of a legislator, you are a lobbyist. I do not know how more clear you could be.

Councilmember Yukimura: But this is not a legislator in administrative action. This is rule-making. It is not legislation. I just rather leave no stone unturned.

Council Chair Rapozo: That is why I said I did not think we would get done by 1:00 p.m.

Councilmember Yukimura: Well, instead of arguing, just to give me your decision and I will go with it.

Council Chair Rapozo: No. We are not going to bring up anyone as a resource person.

Councilmember Yukimura: Alright. Thank you. I think that is all I have.

Council Chair Rapozo: I do want to ask Councilmember Hooser on Ms. Kanna's testimony as far as item Section 3-6.5(c)5, is that a typographical error?

Councilmember Hooser: No, it is not.

Council Chair Rapozo: Can you let me know why or let us know why that language was excluded?

Councilmember Hooser: There are lots of discussion and attempts at the State level and other Counties. Right now, if you want to know how much money the Kaua'i Board of Realtors gives to campaigns, you have to search out every single candidate running for office, look at every single one of their contribution reports, and scan it through the entire year to determine whether they were funded by the Kaua'i Board of Realtors or not. This consolidates those contributions underneath the lobbyist. So instead of having to go through seventeen (17) Council candidates to see if the Kaua'i Board of Realtors donated money to them, you could go to their expenditure report and see very clearly who the funds are donated to. Yes, that is the intent.

Council Chair Rapozo: The Kaua'i Board of Realtors or any non-candidate Committee that is a lobbying organization, are not they required to file a report with campaign spending currently?

Councilmember Hooser: And that is what I was trying to say.

Council Chair Rapozo: No, I mean, one (1) report so we could track all of the expenditures and campaign donations for that specific Committee. Rather than going through each candidate...

Councilmember Hooser: Right.

Council Chair Rapozo: Are the lobbyists not required to file a statement with campaign spending that has all of their expenditures? They are not?

Councilmember Hooser: I do not believe so.

Council Chair Rapozo: Okay.

Councilmember Hooser: In worst case situation, it is duplicative. But that should not matter if you have to cut and paste it from another report. But I do not believe it is duplicative.

Council Chair Rapozo: Okay. Then the other question is relating to the restricted activities and the twenty-five dollars (\$25) with an aggregate of one hundred fifty dollars (\$150). Is that an issue or would you have a problem with addressing or entertaining that possible amendment?

Councilmember Hooser: Could you repeat that?

Council Chair Rapozo: Where Ms. Kanna is recommending that we adopt the State law language that sets the expenditure limit of twenty-five dollars (\$25) a day or an aggregate of one hundred fifty dollars (\$150) during a reporting period.

Councilmember Hooser: We were trying to simplify it at the same time capture the expenditures. It is like the campaign spending reports that we all have to file. You write a check, you disclose it. Period. It is like your check register. It should not be a problem disclosing funds whether it is twenty-four dollars (\$24) a day or whether it is fifteen dollars (\$15) or five hundred dollars (\$500) or five thousand dollars (\$5,000). It is just a check register. As we have disclosed all of our expenses, we are asking lobbyists to disclose all of theirs. Yes, I think it is an unnecessary change to make.

Council Chair Rapozo: Okay. Any other questions? Any comments?  
Councilmember Yukimura.

Councilmember Yukimura: The receipt or expenditure of any moneys for the purpose of influencing election or defeat of a candidate, that is if the lobbyist expended any money, right, not necessarily the political action group?

Councilmember Hooser: The lobbyist.

Councilmember Yukimura: The lobbyist?

Councilmember Hooser: Yes.

Councilmember Yukimura: His or herself. Okay.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Just a quick comment. I am ready to vote on this. I think that what we see here is a very stringent law that the introducer has

created and maybe in some ways it is as stated in this unrealistic or maybe not unrealistic, but what causes unreasonable burdens for lobbyists. I think that is part of what the intention of the introducer was. For me, the question is about how this law will work in the end and how effective it is. I would like to be able to track this and I am willing to move in this direction of seeing if this really works and see how well we get a lobbyist to move in compliance or if not because if there is a need for simplicity moving forward, then that we revisit this to ensure that the system we are creating does work for us. Thank you.

Council Chair Rapozo: I am sorry. Councilmember Hooser.

Councilmember Hooser: We are wrapping it up?

Council Chair Rapozo: Yes.

Councilmember Hooser: Okay. This measure is both stronger and weaker than State HRS. We require only one (1) reporting a year and HRS requires three (3), just for one example. We first had the five (5) days we had to register, and we had complaints about that. Now we say register right away, and we are getting complaints about that. No one likes to report financial expenditures or fill out forms, period. But this is about regulating lobbyists who get paid to influence government at the end of the day. It is not about people testifying on their own. It is people who are professionals at this. I do not believe it is burdensome at all. If you look at the Kaua'i Board of Realtors and you I think how many times have they testified before us at the Council in last year. They are against a lobbying bill and what else? In favor of the GE tax. I am not sure. But maybe two (2) or three (3) things in a year and that is not burdensome at all. The purpose of this is to comply with the Constitution but also to provide transparency to the people in our community as to who is a lobbyist, who gets paid to influence government, and how much money they spent. At the end of the day, that is what it is all about. I think it is a good bill and I am hopeful we will get unanimous support for it. Thank you.

Council Chair Rapozo: Any other discussion? Councilmember Yukimura.

Councilmember Yukimura: Yes. I think we all agree that we need some kind of a bill that requires disclosure and transparency. I think what we have here is reasonable unless there is something that we have overlooked. I am always concerned about that, which is why I wanted to have further discussion. I want to say that on the issue of reporting under oath, it was pointed out earlier that the Council does have notary publics here. I like the idea that a person can be prosecuted for perjury if they do lie on the reporting forms. I am not bothered by that. I mean, disclosure is one thing, prohibiting people from participating in the functions of government is another thing. We did take out the prohibition against people, and thank you to those in the audience and others who have testified about that provision. The provision that would prohibit people from participating on advisory boards and

committees because that is going a step beyond disclosure. That for me, is too much because we need everybody's input. As long as we know where they are coming from, then we can discount or counter or whatever. But to keep them out of participating in government does not seem right to me. I think we have done our best and as Councilmember Chock said, we will want to monitor this and if there are things that we are restricted unduly and not getting the benefits of disclosure, which is the main purpose of this Bill, then we will have to come back and amend it or correct it.

Council Chair Rapozo: Any other discussion? I do not really feel comfortable when we say "let us pass it and see if it works and if not, we will fix it." That bothers me when we say that. Let us get something done today and then let us just see if it causes a burden, then we will just fix it. That is a concern. I mean, I think when we vote on a bill, when this body votes on a bill, individually or collectively, need to be assured that what we pass is going to have the consequences or the results that we believe it is going to have. I mean, I think to vote on something because we want to get something done today and maybe there is some concern and questions, which I do. I think Ms. Kanna brings up some really good points in her testimony, which I did not see until today. I am in an awkward position because we only have five (5) members, we need four (4) to pass it out, and yet, there are some questions. I think the one section that she brings up that I asked Councilmember Hooser about regarding the why was the language removed from the State. As I read our section, that section does not pertain to zoning measure or a permit approval. That section specifically pertains to lobbyists' efforts that are to either help somebody win an election, a person, or lose an election, or a ballot measure. It is not your normal...so there is a reason why that was excluded in the State law. I do not know what that is and I am curious to find out because there is a reason why the State said, "Hey," and I do not know what that is. I really do not. I would be curious to find out. The other section about the twenty-five dollars (\$25) a day or aggregate of one hundred fifty dollars (\$150) is another, that is another one I think I am interested in because that does not overburden the entity to have to go report a pen or anything else. I am kind of leaning, I am not going to try to do an amendment today because of the time. Yes?

Councilmember Yukimura: I just want to say if you are looking at a deferral, let us talk about that?

Council Chair Rapozo: Well, let me finish my...that is the second time today Councilmember Yukimura, you interrupted me. I do not understand.

Councilmember Yukimura: I apologize.

Council Chair Rapozo: I do not understand why you do that. I just do not and it throws the...anyway. Any other discussion? I am not going to support it. I can tell you. We can call for the vote. I am not going support it today. It is not that I do not support a lobbyist bill. It is just that I am not going to support something today praying that it works, hoping that it works. I am going to support something

that we believe, as we move forward, any kind of...if we have concerns items on this Bill, then let us explore it. Then let us explore it and let us come agreement or a consensus that hey, we are comfortable that is not going to happen. We are not going to cause this overburden. I want to explore those two (2) items that I just talked about and we can do that today. If we take a break for lunch, we come back, and we work on that today. That is fine. But if not, I would ask that we either defer it or send it back to the Committee next week so we have that formal discussion. Councilmember Chock and then Councilmember Kagawa.

Councilmember Chock: I understand your concerns. I do not have the same concerns and so that is why I am willing to move forward. But if it is the pleasure of the body to work on this more, I think we can work as long as we want on it. In the end, I do not even want to start to entertain that I know the outcome of this in its entirety. But I have enough to move forward so that is where I am.

Council Chair Rapozo: Okay. Thank you. Councilmember Kagawa.

Councilmember Kagawa: Again, I think this is a very complex bill and it raised some concerns from KBR and I want to respect that and have the full Council, if possible, be in on the discussion. The outcome may be that we end up with the same exact thing in front of us. But I do not think waiting a week will kill us. I would be willing to push it off to Committee next week. I would like to see a majority vote on lobbying bill because I think we all agree that we need to follow the State law and have a lobbying bill. I want to see a lobbying bill that is veto proof. I think a 4:3 lobbying bill puts it in question whether the Mayor will be lobbied by opponents of the bill and perhaps veto it. I do not see that as the case. But I am just saying that I would like to see unanimous support for something that we all agree is important to have. The State has it. Every other County that. Maui has a crappy one. We already heard that from Chair White. He said, "Ours is short. It is too short. It does not work at all. It is useless. Do not copy ours." So we needed one in more detail. Again, I think waiting a week and looking at the concerns brought up and seeing if we need an amendment will not kill us. Thank you, Chair.

Council Chair Rapozo: Councilmember Yukimura and then Councilmember Hooser.

Councilmember Yukimura: I said earlier that I prefer to not leave a stone unturned. I am not talking about just anything and then trying to correct it. I thought the intent of the body was put it through so that this was going to be the final vote. I have no objections to a deferral to do more work on it.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: Yes. If this body is not prepared to pass it, obviously a deferral is what is in order. My only concern is that the only people opposed to this measure are the lobbyists and there has been a lot of misinformation,

and are not able to rebut it as Councilmember Yukimura and others have said. We are not able to rebut the misinformation that comes either at the microphone or otherwise to rebut it properly. I am concerned that the longer we defer, the more pressure from the lobbying industry, big business, big lands owners, development interest, and others will try to weaken it. It has already been weakened. I still think it is a very good measure. I do not think we should go to the lowest common denominator. I think we should endeavor to be a model for the State if not further. I believe this measure does that, and that would be my main concern, is that the longer we delay it and defer it, the weaker it becomes because of the pressure from the people that testified. Then, I am also concerned that this is going turn into a larger battle, if you would. I do not want people to feel they have though show up and fill the room to pass a bill to testify in support. We had, I think over ninety (90) or so testimonies in support and there was no call that well you folks have to come out today to pass this measure. But if that is the direction that this discussion is going to go, then it is inevitable that people in the community are going to feel the desire that they have to then show up, then it goes back and forth, and it turns into a mess. If the will is to defer it, we do not have the votes to pass it, then so be it. I think it is a good bill. I would like to keep it strong. This is not just about today. This is about tomorrow. This is a law that should have been on the books for the last ten (10) years and has not been. So we need to pass a good piece of legislation and move forward. Thank you.

Council Chair Rapozo: Thank you. Councilmember Kagawa.

Councilmember Kagawa: I just wanted to also say that the excused Councilmembers are not working a second job or playing. They are representing the Council at NACo. It is a legitimate excuse. Again, I would like to see a unanimous consensus on this bill that we come up. Thank you.

Council Chair Rapozo: I guess I will just respond by saying Ms. Kanna applies absolutely no pressure to me. I really do not feel any pressure from you or anyone else regarding this measure. I think you bring up some valid points. We need the tape change? Okay. Well, let us take the five (5) minutes. We are at the caption break as well. Staff, can we go to 1:15 p.m. or 1:20 p.m., somewhere around there or do you folks just want to go to lunch? Okay, let us finish. Let us take the ten (10) minute caption break.

There being no objections, the meeting recessed at 12:56 p.m.

The meeting reconvened at 1:05 p.m., and proceeded as follows:

Council Chair Rapozo: I apologize for having to interrupt that for the break. As I was saying, and I do not mean to be arrogant or anything, but I do not feel any pressure. I think the way I look at this is you have brought up some, what I believe, are reasonable concerns. The restricted activities, the twenty-five dollars (\$25) a day or one hundred fifty dollars (\$150), I find it hard to believe that



any legislator would change their vote for a twenty-five dollars (\$25) gift or for that matter, a one hundred fifty dollars (\$150) gift. I just do not see it happening. To me, that is unreasonable to have to require someone to do that. But it is not a deal breaker for me whether if the majority of the Council wants to keep that in, I will support that. The other one, which I talked about which you brought up and why that language was removed from the State law, those measures electing or not electing a political candidate or an elected official, or passing or not passing a ballot measure which is the only things that section relates to, it is not the Council's decision to whether or not that passes or not passes. The Council does not make that determination. It is the voters. That is why the State has that language in there because the lobbyist, and let us say it is a Charter Amendment. It is a Charter Amendment that is going to be put on the ballot and it could be the term limits or the districting of the County Council. They cannot influence the outcome of that vote by talking to Councilmembers because we vote like everybody else. It is a matter that is going to be voted on by the general public in an election. So that is why, in my opinion, I believe the State has exempted that activity from the lobby bill because the lobbying definition is you have to spend money to influence a vote. Well, the vote that the decision and the outcome is not determined by this body. It would be determined by the general public. The more and more I think about that, I can understand why the State would have that in there. But that is it. Another two (2) weeks is not going to hurt. I do not believe it is going to make a huge difference. But I think those are areas and again, when we talk about lobbyist or advocates, it is in and of itself that is not a bad term. I think both sides of every issue have lobbyists. If you agree with the issue, then you like the lobbyists. If you are against the issue, then you do not like the lobbyists. If both sides have issues, then everybody likes the lobbyists, right, because everybody is getting a fair representation. But at the end of the day, I think we rely on everybody's testimony whether they are lobbyists or not, and I think we should not make it so burdensome on the lobbyists because their input is valuable, in my opinion. In fact today, Kaua'i Board of Realtors. Now I am not speaking for all of the lobbyists because I think some of them are slimy. But I think for the most part, the vast majority of lobbyists are very legitimate and very contributory to what we do as decision makers. I would say that the lobbyist is not necessarily a bad term. My time is up. Councilmember Hooser.

Councilmember Hooser: Just real briefly, Chair. The issue about lobbyist spending money to influence ballot initiatives and/or elections, a lobbyists could buy an advertisement in the newspaper saying "vote yes, vote no." So those are the kinds of disclosures, or give out little pins or hats, or put banners up, or other ways to influence. It is not necessarily the intent of the disclosure. It is not necessarily just the funding that comes to elected officials, but how they are affecting that ballot initiative. So if someone is going to vote on a ballot initiative and some industry group is lobbying heavily to pass that ballot initiative, it is important for the people to know how much money is being spent and who is spending the money. That is the intent of that. I just wanted to clarify that. Again, we all look at the world through different lenses and I would prefer to err on the side of having a tougher law

when it comes to regulating people who are paid to influence government than a weaker law. Thank you.

Council Chair Rapozo: I feel compelled to respond because the lobbying definition means “communicating directly or through an agent or soliciting others to communicate with a State or County officer or employee for the purpose of attempting to influence any legislative action or administrative action.” So the advertisement in the paper is not. That is for the general public.

Councilmember Hooser: If I may.

Council Chair Rapozo: Yes.

Councilmember Hooser: There are two (2) main sections of the law. One is establishing who is a lobbyist and who is not a lobbyist, and what you just read is correct. The other section is if you are a lobbyist, if you meet that definition, then what do you have to do in terms of disclosure. The financial disclosure requirements are different. They are not exactly the same as the definition of a lobbyist. So it is two (2) different sections and it is about influencing government, I think. I look forward to the further discussion in what, two (2) weeks?

Council Chair Rapozo: Two (2) weeks.

Councilmember Hooser: Thank you.

Council Chair Rapozo: Thank you. Any further discussion? If not, can I get a motion?

Councilmember Kagawa moved to defer Bill No. 2614, Draft 1, as amended to Bill No. 2614, Draft 2, seconded by Councilmember Chock, and carried by a vote of 5:0:2 (*Councilmembers Kaneshiro and Kualii'i were excused*).

Council Chair Rapozo: Motion carried. Next item, please.

Bill No. 2615 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, ARTICLE 11A, KAUAI COUNTY CODE 1987, AS AMENDED, BY ADDING A NEW SECTION 5A-11A.3, RELATING TO AN ASSESSMENT CAP: Councilmember Chock moved for adoption of Bill No. 2615, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Hooser.

Council Chair Rapozo: Any discussion? I will suspend the rules for public testimony. Matt.

There being no objections, the rules were suspended to take public testimony.

Mr. Bernabe: Matt Bernabe for the record. I was looking over the Bill and I was confused because the last time I heard you folks discussing it, I heard a tiered level for the assessment, but I did not see it in there. Maybe you folks

can get with me later and figure out why I am confused. But the other thing that I want to say is I actually like this one better than the straight cap. In fact, I would also go to say that if we do the straight cap, that they should automatically have to do the assessment cap because this is opinions of difference, right? Somebody buys a house as an investment or somebody buys a house as a home. These are two (2) different mentalities and I witnessed this in my own world. If you want to go and invest in your property and keep it at a high value but you want to have the benefits of the cap, I think that goes contrary to the whole point of this Band-Aid. The other reason is if for example, for me, I hear all the time, "Oh my house is worth more." I do not even like that. I think we could somewhat keep the coffers full while not letting people slip through the cracks with the assessment cap. I know that earlier on the other testimony she was against it, but I am on the fence on both of them, but I like this one better for some reason. I would rather have my overall value kept down, right? I see that if it gets reset if I do my roof or maybe something, other (inaudible), that is good, and then I can reapply. But if you are capped at a certain level and your home is three million dollars (\$3,000,000), or four million dollars (\$4,000,000), or five million dollars (\$5,000,000) and you do live in it, right, it is a little bit different than my one-sixth (1/6) acre, very small lot, and the house is worth five hundred thousand dollars (\$500,000) because I am pretty sure that home on that big value property if you compared to its comparative, yes it might be a few million dollars more. But it is closer than mine with what you get for five hundred thousand dollars (\$500,000) somewhere else. I do not know. This is a hard subject. This is also one of those subjects that we really need overall tax discussion, of course. But I will end with this, if you folks pass it, it should be mandatory that they are married. If you have a straight cap, you have to cap your assessment as well as far as I am concerned. I think that is a no-brainer. Thank you.

Council Chair Rapozo: Thank you. Any other testimony?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Further discussion. Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. I will be supporting it. I just want to thank the Committee and the Councilmembers for addressing the ever-ending problem of ad valorem taxes and skyrocketing market values on Kaua'i. I think while this is not a perfect solution to our overall tax structure, I think we definitely need a Band-Aid right now just to keep the tax bills stable. Thank you.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Real brief. I just wanted to also appreciate everyone's, Councilmembers and the Administration's, willingness to be flexible in problem solving as this has been ongoing and I see it as the request has been made to be an ongoing discussion. I think this is moving us in a positive direction rather than just saying, "no" as often times it does occur, I think that this is the way we are meant to work together in coming up with the best solution. Thank you. I will be supporting this.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: Yes. I believe this Bill is a very creative solution to meeting both of our goals with respect to real property taxes, one, giving more predictability and moderation to real property taxes, but also allowing for the creation of sufficient revenues to run County government, which is very important as well. If we stop services, people would definitely notice and the economy would tank because we could not function. So they are both very important goals, and I believe this Bill tries to meet both goals and is the result of some really good effort.

Council Chair Rapozo: Thank you. Councilmember Hooser.

Councilmember Hooser: Yes, Chair. Thank you. As I go around the community, as I am sure everybody here does, it is a recurring theme, people talking about the high cost of living and about taxes going up. I am very pleased that we are going to be passing this today. I want to thank Councilmember Chock especially for being the bridge to the Administration. Again, when I introduced the tax cap measure and we had some discussion on that, Councilmember Chock and the Administration began talking about other alternatives, and we came up with this tax assessment cap. I am very happy that it is going to be put into place and that it will prevent large swings in property taxes for owner-occupied properties and long-term affordable rentals. So just because property values go up by significant amounts, the property taxes assessments will not go up more than three percent (3%), and that will really prevent those big swings, which have been a problem over the last few years and are a big problem in certain areas as property values fluctuate significantly. I am very pleased that this is something that is going to have a real impact on people's lives, homeowners, and I am very happy to be here voting in support. Thank you.

Council Chair Rapozo: Thank you. I too, will be supporting this. Thank you to Councilmember Hooser for bringing up the initial tax cap and then of course, Councilmember Chock for getting us to consider the option of an assessment cap. So with that, roll call.

The motion for adoption of Bill No. 2615, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Yukimura,	
	Rapozo	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Kaneshiro, Kualii	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

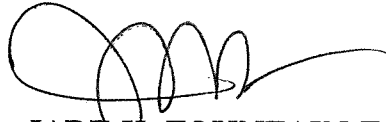
Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: With that, there is no further business.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 1:18 p.m.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large loop followed by several smaller loops and a long horizontal stroke extending to the right.

JADE K. FOUNTAIN-TANIGAWA  
County Clerk

:aa

(February 24, 2016)

FLOOR AMENDMENT

Bill No. 2614, Draft 1, A Bill For An Ordinance To Amend Chapter 3, Kaua'i County Code 1987, As Amended, By Adding A New Article 6, Relating To The Registration Of Lobbyists

Introduced by: GARY L. HOOSER

Amend Bill No. 2614, Draft 1, by amending Sec. 3-6.8(a), to read as follows:

"Sec. 3-6.8. Administration.

(a) The Office of the County Clerk shall administer and implement this Article, and shall have the following powers and duties:

(1) Prescribe forms for the statements and reports required by Section 3-6.3 and Section 3-6.5, and establish orderly procedures for implementing the requirements of those provisions.

(2) Adopt rules, not inconsistent with this Article, as in the judgment of the Office of the County Clerk seem appropriate for the carrying out of this Article and for the efficient administration of this Article. The rules, when adopted as provided in Hawai'i Revised Statutes, Chapter 91, shall have the force and effect of law.

(3) Report alleged violations of this Article to the Board of Ethics.

(4) Request from the Board of Ethics an advisory opinion subject to this Article. If no advisory opinion is rendered within [thirty (30)] forty-five (45) days after the request is filed with the board, it shall be deemed that an advisory opinion was rendered and that the facts and circumstances of that particular case do not constitute a violation of this Article. The opinion rendered or deemed rendered, until amended or revoked, shall be binding on the board in any subsequent charges concerning the person subject to this Article who sought the opinion and acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for an advisory opinion."

(Material to be deleted is bracketed. New material is underscored.)

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(February 24, 2016)

FLOOR AMENDMENT

Bill No. 2614, Draft 1, A Bill For An Ordinance To Amend Chapter 3, Kaua'i County Code 1987, As Amended, By Adding A New Article 6, Relating To The Registration Of Lobbyists

Introduced by: MEL RAPOZO

Amend Bill No. 2614, Draft 1, by amending Sec. 3-6.2, "Definitions", to read as follows:

"Sec. 3-6.2. Definitions. When used in this Article, the following words or phrases shall have the meaning given in this section unless it shall be apparent from the context that another meaning is intended.

"Administrative action" means the proposal, drafting, consideration, amendment, enactment, or defeat by any administrative agency of any rule, ordinance, or regulation, or other action governed by Hawai'i Revised Statutes (HRS) Section 91-3.

"Administrative agency" means a commission, board, agency, or other body, or official in the County government that is not a part of the legislative branch.

"Board of Ethics" means that board established by Section 20.05 of the Charter of the County of Kaua'i.

"Contested case" shall have the meaning defined in HRS Section 91-1.

"Contribution" includes a gift, subscription, forgiveness of a loan, advance, or deposit of money, or anything of value and includes a contract, promise, or agreement, whether or not enforceable, to make a contribution.

"Expenditure" includes a payment, distribution, forgiveness of a loan, advance, deposit, or gift of money, or anything of value and includes a contract, promise, or agreement, whether or not enforceable, to make an expenditure. "Expenditure" also includes compensation or other consideration paid to a lobbyist for the performance of lobbying services. "Expenditure" excludes the expenses of preparing written testimony and exhibits for a hearing before the County Council or an administrative agency[,] or attorney's fees paid where such fee information is protected by the attorney-client privilege pursuant to the Hawai'i Rules of Professional Conduct Rule 1.6.

"Legislative action" means the sponsorship, drafting, introduction, consideration, modification, enactment, or defeat of any bill, resolution, ordinance, amendment, report, nomination, appointment, or any other matter pending or proposed in the County Council, including the approval or veto of such.

“Lobbyist” means any individual who for pay or other consideration engages in lobbying on behalf of another person in excess of five (5) hours in any month of any reporting period described in Sec. 3-6.5(b) or spends more than \$750 lobbying during any reporting period described in Sec. 3-6.5(b).

The term “lobbying” shall mean communicating, directly or through an agent, or soliciting others to communicate, with a State or County officer or employee for the purpose of attempting to influence any Legislative action or Administrative action.

“Person” means a corporation, individual, union, association, firm, sole proprietorship, partnership, committee, club, Limited Liability Company or any other organization or a representative of a group of persons acting in concert.

“Natural person” means a human being, as distinguished from an artificial person created by law.”

(Material to be deleted is bracketed. New material is underscored.)

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